

1 SACRAMENTO, CALIFORNIA, DECEMBER 15, 1999 - 9:30 A.M.

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3 CHAIRMAN EATON: Good morning, everyone,
4 and welcome to the second day of the December Board
5 meeting of the California Integrated Waste Management
6 Board.

7 Madam Secretary, would you please call the
8 roll.

9 BOARD SECRETARY: Board Members Jones.

10 BOARD MEMBER JONES: Here.

11 BOARD SECRETARY: Moulton-Patterson.

12 BOARD MEMBER MOULTON-PATTERSON: Here.

13 BOARD SECRETARY: Pennington.

14 BOARD MEMBER PENNINGTON: Here.

15 BOARD SECRETARY: Roberti.

16 Chairman Eaton.

17 CHAIRMAN EATON: Here.

18 Okay. Quorum is present.

19 Members, ex parte communications. We did
20 receive a number of them last evening. I'll read a list
21 that I think you may have also received, so if you have
22 received the same letters, when I call upon you if you
23 would just kindly mention that you have also received the
24 same letters, and that will be sufficient for disclosure
25 purposes.

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1 First, Gary Johnson, Eagle Mountain
2 regarding Eagle Mountain landfill; Richard Lymp,
3 self-employed individual regarding daily and intermediate
4 cover regulations; Supervisor Michael Antonovich, L.A.
5 County Board of Supervisors, regarding Eagle Mountain;
6 C.A. Richards, an individual regarding Eagle Mountain;
7 Ernest Quintana, Joshua Tree National Park, also regarding
8 Eagle Mountain; Byron Johnson, an individual, also
9 regarding Eagle Mountain landfill; David Fick from the
10 Desert Environmental Response Team, also regarding Eagle
11 Mountain landfill; this has got to be wrong, but okay;
12 Lara Blakley from the City of Monrovia, Eagle Mountain
13 landfill; Kenneth Hahn, L.A. County Assessor, Eagle
14 Mountain landfill; Paul Ryan, IEDA, also Eagle Mountain
15 Landfill; and just this morning we had received by fax,
16 which you should have a copy of, it was distributed, a
17 letter from Rick Best, Californians Against Waste, also
18 regarding Eagle Mountain landfill.

19 We'll start with Mr. Pennington.
20 Mr. Pennington, any additional ex parte communications?

21 BOARD MEMBER PENNINGTON: Thank you,
22 Mr. Chairman. I have all that you have just commented on,
23 and I spoke to Nancy Burt, other than just to say hello,
24 nothing on the agenda.

25 CHAIRMAN EATON: Mr. Jones.

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1 BOARD MEMBER JONES: All the ones that
2 are -- not all, but a lot of the ones that you stated and
3 good morning to Dave Hardy and Evan Edgar this morning and
4 Steve Maguin. And that's it.

5 CHAIRMAN EATON: Ms. Moulton-Patterson.

6 BOARD MEMBER MOULTON-PATTERSON: Thank you,
7 Mr. Chair. Just the ones that have been so stated, and
8 also I said hello to Karen King at a CSAC reception last
9 evening.

10 CHAIRMAN EATON: Great. And I said hello
11 to the Eagle Mountain delegation and also said hello to
12 Evan Edgar this morning, just a quick hello.

13 For those of you who may be here for the
14 first time or have been here not recently, in the back of
15 the room there are speaker forms of which if you wish to
16 speak on any item on today's remaining agenda, if you'll
17 kindly fill that slip out, mark the agenda item and then
18 bring it go forward to Lisa Dominguez, who is on my left
19 and for most of you on your right. She will make sure
20 that we receive it up here and that we know of which item
21 you desire to speak on.

22 Yesterday we went over reports from Board
23 Members, but I will ask if there's anything additional.
24 Mr. Pennington, anything?

25 BOARD MEMBER PENNINGTON: No. Thank you,

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1 Mr. Chairman.

2 CHAIRMAN EATON: Ms. Moulton-Patterson.

3 And yesterday due to unforeseen circumstances,
4 Mr. Chandler couldn't be with us to present his Executive
5 Director report. So today, Mr. Chandler, we look forward
6 to it.

7 MR. CHANDLER: Thank you, Mr. Chairman.

8 CHAIRMAN EATON: And I did not forget.

9 MR. CHANDLER: You did not forget. Good
10 morning, Board Members. I apologize for not being able to
11 attend yesterday's meeting and I appreciate your
12 willingness to hear my report this morning.

13 As you will recall, at your August meeting
14 you considered a request from the City of San Diego to
15 approve funding under our disposal and codisposal cleanup
16 program, the AB 2136 program, to remediate a burn dump
17 site located on 38th Street in the city. At that time you
18 expressed your interest in working with the City, you
19 identified a number of issues that you felt needed to be
20 further addressed before the Board could consider the
21 funding, and asked the city officials to develop a
22 comprehensive remediation plan. The Board also agreed to
23 schedule consideration of the City's request for funding
24 once the plan was submitted.

25 Since that time, staff has had several

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1 meetings and conference calls with the City and there were
2 a number of developments that I would like to bring to
3 your attention. Through the Board's contractor, we have
4 completed a site assessment that confirms the presence of
5 burn ash on private properties adjacent to the 38th Street
6 lot. In addition, through additional research the City
7 has determined that it is the responsible party for the
8 site. And finally, at our strong urging, the City has
9 worked with the Department of Toxic Substance Control to
10 determine what cleanup options may be available through a
11 DTSC-sanctioned voluntary cleanup.

12 Based on these developments, we've informed
13 city officials that the Board is very concerned with the
14 length of time that has elapsed since that item was before
15 the Board and that the Board wanted to see the City
16 remediate the site as quickly as possible. We've informed
17 them that staff will be bringing an item to the Board in
18 January, and at that time we will provide a detailed
19 status of the site, options available to the Board under
20 its 2136 program, and our recommendation.

21 Secondly, you may recall that the
22 Governor's 1999-2000 budget includes \$600,000 over two
23 years to fund a study to assess the multimedia
24 environmental performance of municipal solid waste
25 landfills focusing on air, water and gas. I would like to

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1 update you on our efforts in this area.

2 This study will support our efforts to
3 report on what we call the other 50 percent. When we come
4 to the year 2001, we will be reporting on California's
5 success in reaching the 50-percent diversion goal; and
6 with the information we hope to develop through the
7 landfill study, we will be able to provide a true picture
8 of landfill performance and the environmental impacts
9 associated with those landfills. We'll be looking at
10 impacts such as leakage into groundwater, groundwater
11 impacts, explosive gas impacts, subsurface gas migration
12 potential and atmospheric conditions. The draft scope of
13 work and time line were provided to you at the end of
14 November for your informal review and comment. I have
15 also sent memos to the Executive Directors of the State
16 Water Board and the Air Board requesting their
17 participation in our landfill study team.

18 The team will assist us with the more
19 comprehensive review of the scope of work and the
20 contractor, and in reviewing the contractor, the
21 deliverables. I believe that their expertise is necessary
22 because of this cross-media approach. We will also
23 include an LEA representative and staff of our Permitting
24 and Enforcement Division, our Policy Office, the
25 Administration Division and Board Advisors. We anticipate

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1 coming back before the Board with a scope of work before
2 February of next year and hope to have an RFP by late
3 February or March.

4 And finally, you may recall the aggregate
5 recycling assistance site in Huntington Park that was shut
6 down by the City in 1997 through a nuisance abatement
7 process. Progress towards the ultimate removal of the
8 rubble pile, most of which is demolition from the
9 demolition of the Santa Monica freeway reconstruction
10 project, and it has been extremely slow. The case was
11 recently assigned to a new judge in the Los Angeles
12 Municipal Court who is holding both the operator and the
13 City accountable for developing an acceptable removal plan
14 and moving ahead with remediation work.

15 The removal plan was submitted by the
16 operator on August 20th and rejected by the City on
17 September 24th. Board staff and our site engineering
18 consultant, Brian Steer and Associates, were ordered by
19 the court into two days of hearing on November 30th and
20 December 3rd to help work out these details of the revised
21 removal plan. The City and the operator were in court
22 again on Monday to present the revised plan to the judge
23 and on Tuesday to present a final agreement.

24 There are still unresolved questions
25 stemming from the operator's bankruptcy case, but

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1 agreement on a removal plan will eliminate the major
2 obstacle to abating this nuisance. I understand,
3 Mr. Chairman, that you mentioned the item regarding our AB
4 939 report yesterday, so I will not go through that. And
5 Members, this does conclude my report this morning.

6 CHAIRMAN EATON: Any questions of
7 Mr. Chandler? Thank you, Mr. Chandler.

8 Members, just a couple of housekeeping
9 matters. Since we moved around a lot yesterday and for
10 the convenience of the audience, just a note of how we'll
11 proceed this morning and hopefully this afternoon. This
12 morning we'll start with Item Number 1, which was carried
13 over from yesterday due to an illness with the LEA, I
14 believe, from San Diego, who I understand is here today;
15 proceed with Items 2 and 3, and that will complete the
16 permit portion of the agenda.

17 Thereafter, we will then move to where we
18 left off yesterday beginning with Item 26 and proceeding
19 with Items 26, 27, 28, 29. Item 30, if you remember, was
20 a consent item. We'll move to Item Number 31, go to 33,
21 34 and 35, and hopefully that will complete the entire
22 agenda with the exception of the public comment period.

23 Once we finish that, hopefully by this
24 morning, it will be my desire -- but as you know, every
25 time we predict that we will go until 3:00 or 4:00 in the

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1 afternoon -- but barring any unforeseen circumstances,
2 we'll break from lunch and come back and do our closed
3 session after we've completed the public portion of the
4 meeting.

5 So if there's no objection to that,
6 Ms. Nauman, we can start with Item 1, which is the
7 consideration of a new standardized permit for Evergreen
8 Nursery Composting in San Diego.

9 MS. NAUMAN: Good morning, Mr. Chairman and
10 Members. Julie Nauman, Deputy Director --

11 CHAIRMAN EATON: Before we begin, if we can
12 give Mr. Roberti the opportunity to one --

13 BOARD MEMBER ROBERTI: No ex partes.

14 CHAIRMAN EATON: And he's on the roll.
15 Senator Roberti -- what happened, Senator, is just before
16 Californians Against Waste dropped the letter off to all
17 of us, so we ex parte'd that. So you wouldn't have had
18 any opportunity to see that or to know it, but they put
19 it --

20 BOARD MEMBER ROBERTI: Yes, I do have it.

21 CHAIRMAN EATON: We did disclose it for all
22 of us, so you're in good status.

23 Ms. Nauman.

24 MS. NAUMAN: Thank you. Again, Members,
25 Julie Nauman, Deputy Director, Permitting and Enforcement

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1 Division. I won't read the title again. We seem to read
2 the title so many times, so at this point I will turn it
3 over to staff to present the item, and our staff is this
4 morning is Tadese Gebrehawariat and our LEA is also here
5 to assist.

6 MR. GEBREHAWARIAT: Good morning. Item
7 Number 1 regards the consideration of a new standardized
8 permit for the Evergreen Nursery composting facility in
9 San Diego County. As I begin my presentation, I am
10 pleased to also report today that with us is Mr. Richard
11 Gelp of the County of San Diego Local Enforcement Agency
12 or LEA, and Mr. Mark Collins, Chief Executive Officer for
13 Evergreen, Inc., the owner and operator of the proposed
14 new facility. Both are here to address any questions the
15 Board may have with regard to the proposed permit.

16 The project is to allow an operation of a
17 green waste material composting facility under the terms
18 and conditions of a standardized permit. The volumes of
19 material expected to be handled at the proposed facility
20 are a peak daily volume of 500 cubic yards, a design
21 capacity of 10,000 cubic yards, and an annual loading
22 capacity of 20,000 cubic yards.

23 Green waste materials including grass, tree
24 trimmings, wood chips, will be composted in what's called
25 a non-aerated dynamic pile where the pile will be

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1 maintained to four to six weeks at temperatures of about
2 131 degrees Fahrenheit. Temperatures will be monitored
3 and recorded. Nursery water will be added to induce the
4 compost process, to add fertilization and eliminate any
5 potential combustion. It's also proposed that the
6 composting practice will on occasions mix into the compost
7 stable bedding for nutrient value.

8 As we have presented in the table on page
9 1-3 of the agenda item, at the time the item went to
10 print, Board staff had yet to complete our review and
11 analysis of the permit application package. We have now
12 completed our review and analysis of the application
13 package and we have determined the following: The
14 proposed compost facility is consistent with the City of
15 Oceanside Non-Disposal Facility Element or NDFE as amended
16 by and approved by the Board in December 1999 as part of
17 the consent agenda packet; CEQA has been complied with;
18 and the report of composting site information or RCSI is
19 complete.

20 Therefore, staff recommend that the Board
21 adopt Solid Waste Facility Permit Decision Number
22 1999-622, concurring with the issuance of Solid Waste
23 Facility Permit Number 37-AA-0946.

24 This concludes staff's presentation.

25 CHAIRMAN EATON: Any questions of staff?

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1 Ms. Moulton-Patterson.

2 BOARD MEMBER MOULTON-PATTERSON: I move
3 Resolution 1999-622 with appropriate findings to indicate
4 that the Board has found the proposed permit to be
5 consistent with the California Environmental Quality Act,
6 in conformance with the County Integrated Waste Management
7 Plan, meeting all local and state permit requirements,
8 consistent with state minimum standards, and therefore
9 concur in the proposed permit.

10 BOARD MEMBER PENNINGTON: Second.

11 CHAIRMAN EATON: All right.

12 Ms. Moulton-Patterson moves and
13 Mr. Pennington seconds that we adopt Resolution 1999-622.
14 Madam Secretary, would you please call the
15 roll.

16 BOARD SECRETARY: Board Members Jones.

17 BOARD MEMBER JONES: Aye.

18 BOARD SECRETARY: Moulton-Patterson.

19 BOARD MEMBER MOULTON-PATTERSON: Aye.

20 BOARD SECRETARY: Pennington.

21 BOARD MEMBER PENNINGTON: Aye.

22 BOARD SECRETARY: Roberti.

23 BOARD MEMBER ROBERTI: Aye.

24 BOARD SECRETARY: Chairman Eaton.

25 CHAIRMAN EATON: Aye.

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1 Aye. Okay. Item Number 2.

2 Ms. Nauman.

3 MS. NAUMAN: Mr. Chairman and Members, this
4 item is consideration of a new Solid Waste Facility Permit
5 for California Bio-Mass, Inc. in Riverside County. David
6 Otsubo has been the staff on this and will present the
7 item.

8 MR. OTSUBO: Good morning, Chairman Eaton
9 and Members of the Board.

10 In October 1996, the Riverside Local
11 Enforcement Agency issued a registration permit to Cal
12 Bio-Mass, Inc. which would allow the site to operate as a
13 green material composting facility. Under this tier of
14 permit, the operator could keep up to 10,000 cubic yards
15 of feed stock and active compost on-site at any time.

16 Since early 1998, the LEA has documented
17 violations of Public Resources Code Section 44014B,
18 compliance with terms and conditions of the existing
19 permit. The facility exceeds the 10,000-yard limit, and
20 in addition the facility now operates on 40 acres,
21 inconsistent with the 15-acre size listed on the
22 registration permit application.

23 As a result of the enlarged operation, the
24 LEA and operator agreed on a stipulated order of
25 compliance which allowed continued operation of the

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1 facility while the operator obtained the necessary
2 documents. The major hurdle was perhaps the approval of
3 the Board of Supervisors for the expanded project, and in
4 fact, one neighbor has sued over local approval targeting
5 the CEQA documents as being inadequate. As indicated in
6 CEQA statute, while the document is in litigation a
7 responsible agency, such as the Board, shall assume that a
8 CEQA document complies with CEQA requirements. Board of
9 Supervisor approval was granted in June 1999.

10 As the facility proposes to take material
11 such as grease trap pumpings, food waste and fishery
12 waste, the operator has applied for a full Solid Waste
13 Facility Permit as a mixed waste composter. The proposed
14 permit would allow the site to accept up to 700 tons per
15 day or 14,000 tons per month of material. It addresses
16 their current facility size of 40 acres. The agenda item
17 indicated that there was a violation of state minimum
18 standard relative to windrow temperature. Subsequent to
19 the state inspection documented in the agenda item on
20 November 4th, 1999, state staff conducted a site visit on
21 December 7th and determined that windrow temperatures were
22 well within regulatory limits.

23 Staff of the Board's Environmental Review
24 section conducted conference calls with the LEA and
25 Riverside County Planning to clarify the information in

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1 the CEQA document relative to the proposed permit. With
2 the information provided, staff completed their CEQA
3 review and now find the permit to be consistent with the
4 existing environmental analysis and adequate for use of
5 the Board.

6 Staff of the Office of Local Assistance
7 have determined that the permit is consistent with the
8 description in the County's Non-Disposal Facility Element.
9 Therefore, staff recommend that you concur in the issuance
10 of the proposed permit and adopt Permit Decision 99-623.

11 I believe the operator wishes to make a
12 presentation. Also, Laurie Holk of the LEA is sitting
13 next to me.

14 This concludes staff's presentation.

15 CHAIRMAN EATON: Is the operator here?

16 MR. HARDY: Yes.

17 CHAIRMAN EATON: No sunglasses today?

18 MR. HARDY: No.

19 CHAIRMAN EATON: It's an inside joke, for
20 those of you. I know the last time I saw Mr. Hardy in
21 public was somewhere near Albuquerque, New Mexico or
22 something and he was wearing sunglasses because he thought
23 his future was so bright he had to wear shades, I think
24 was your line.

25 MR. HARDY: That's correct.

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1 CHAIRMAN EATON: Mr. Hardy.

2 MR. HARDY: Good morning. My name is David
3 Hardy and I'm President and owner of California Bio-Mass.
4 What I've prepared for you today is just a brief overview,
5 and if you have questions for me, I'm prepared to respond
6 to those.

7 (Slide presentation)

8 MR. HARDY: The project is located out in
9 the Coachella Valley. For those of you who aren't
10 familiar with that, that's Palm Springs and the Palm
11 Desert area. It's a desert terrain and it's in
12 agriculture land.

13 I'll just give you some vital statistics on
14 the project. It's an 80-acre parcel that the company
15 owns. We operate on 40 acres of it. We currently employ
16 28 people. We are permitted on a seven-day, 24-hour
17 basis, and the company has currently invested about \$2
18 million.

19 Primary markets are agriculture.
20 Year-to-date as of November, we've sold 71,000 tons of
21 compost and composted material to the agriculture sector.
22 The feed stocks that are included in the permit, which we
23 currently have experience with, are green waste, wood
24 waste, C&D -- which is primarily wallboard for the
25 gypsum -- food waste, liquids and manures. I also have

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1 prepared for the Board if you have questions on exactly
2 how we process this, and I would be happy to present that
3 to the Board.

4 Otherwise, I'm open to any questions.

5 CHAIRMAN EATON: Any questions of
6 Mr. Hardy? Hearing none, thank you, Mr. Hardy.

7 MR. HARDY: Thank you.

8 BOARD MEMBER PENNINGTON: Mr. Chairman.

9 CHAIRMAN EATON: Mr. Pennington.

10 BOARD MEMBER PENNINGTON: I'll move
11 adoption of -- I've got to get on the right page here --
12 Resolution 1999-623 with the appropriate findings to
13 indicate that the Board has found the proposed permit to
14 be consistent with the California Environmental Quality
15 Act, in conformance with the intent of the County
16 Integrated Waste Management Plan, meeting all local and
17 state permit requirements, consistent with the state
18 minimum standards, and therefore concur in the proposed
19 permit.

20 BOARD MEMBER MOULTON-PATTERSON: Second.

21 CHAIRMAN EATON: All right.

22 Mr. Pennington moves and
23 Ms. Moulton-Patterson seconds that we adopt Resolution
24 1999-623.

25 Madam Secretary, would you please call the

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1 roll.

2 BOARD SECRETARY: Board Members Jones.

3 BOARD MEMBER JONES: Aye.

4 BOARD SECRETARY: Moulton-Patterson.

5 BOARD MEMBER MOULTON-PATTERSON: Aye.

6 BOARD SECRETARY: Pennington.

7 BOARD MEMBER PENNINGTON: Aye.

8 BOARD SECRETARY: Roberti.

9 BOARD MEMBER ROBERTI: Aye.

10 BOARD SECRETARY: Chairman Eaton.

11 CHAIRMAN EATON: Aye. Okay.

12 Item Number 3, and I understand,

13 Ms. Nauman, that you have a set --

14 MS. NAUMAN: Proposed approach.

15 CHAIRMAN EATON: Proposed approach. Okay.

16 If you would also in your presentation just explain for

17 not only the Board but for those in the audience how you

18 would like to proceed on this item.

19 MS. NAUMAN: Thank you, Mr. Chairman. I'd

20 be happy to do that.

21 CHAIRMAN EATON: And if I could remind

22 those individuals who would like to speak on this item,

23 whether it's in support or in opposition, fill out a slip

24 in the back and bring it up to Ms. Dominguez and we'll

25 make sure that you get on the agenda.

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1 Ms. Nauman.

2 MS. NAUMAN: Thank you, Mr. Chairman. This
3 item is consideration of a new Solid Waste Facility Permit
4 for the Eagle Mountain landfill in Riverside County. As
5 you indicated, Mr. Chairman, we have a proposed approach
6 to the presentation this morning. We will first have
7 David Otsubo of the Permitting and Inspection Branch make
8 the staff presentation, which will include a brief
9 discussion of the permit and how our staff believes that
10 it complies with the Board's statutes and regulations,
11 including a brief history of CEQA compliance, followed by
12 our staff recommendation.

13 Following Dave's presentation, Laurie Holk,
14 who is representing the LEA this morning, would like to
15 address the Board about the local process by which this
16 permit has found its way to you. Following Laurie's
17 presentation, Rick Daniels with the Mine Reclamation
18 Corporation will present the item. He has a team of
19 people with him this morning to support him. He will be
20 making the primary presentation, however, with others
21 supporting that.

22 Following that presentation, we would like
23 to suggest that you take public testimony from those who
24 are in support of the project, followed by the public who
25 wishes to speak in opposition to the project. We would

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1 hope to have an opportunity following that public comment
2 for staff to be able to respond to any technical issues
3 that are raised during those presentations or perhaps to
4 correct any information that was provided.

5 Finally, the operator has asked for an
6 opportunity to respond prior to the Board's discussion and
7 motion.

8 CHAIRMAN EATON: Thank you.

9 Mr. Otsubo.

10 MR. OTSUBO: The Mine Reclamation
11 Corporation, or MRC, proposes to operate what may become
12 the largest landfill in the world. The site is that of an
13 old Kaiser Steel open pit mine located near the town of
14 Desert Center, roughly halfway between Palm Springs and
15 Blythe. The land owner is identified as Kaiser Eagle
16 Mountain, Incorporated. Also as indicated in the agenda
17 item, the site is located proximal to Joshua Tree National
18 Park. The area of the site involves land originally owned
19 by Kaiser and got involved in the land exchange with the
20 Bureau of Land Management.

21 MRC has been in the process of attempting
22 to obtain a permit for the facility for several years.
23 The original Riverside County approval was granted in
24 1992. The environmental document was successfully legally
25 challenged in San Diego County Superior Court and the

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1 local approval reversed. Subsequently, MRC retained a
2 consultant to address the court's concerns, and in 1997,
3 the Board of Supervisors again approved the project.

4 The new environmental document was again
5 deemed deficient by the San Diego Court citing areas of
6 concern relative to the Joshua Tree and the threatened
7 desert tortoise. MRC and the County consequently appealed
8 the decision to the Fourth District State Court of Appeals
9 which ruled that the document was adequate.

10 In September of this year, the Colorado
11 Regional Water Quality Control Board voted to issue waste
12 discharge requirements to the operator. An appeal of the
13 issuance of the WDR with a petition for a stay was filed
14 by the opponent for the landfill. On December 10th, the
15 appeal was dismissed.

16 As with the Mesquite landfill in Imperial
17 County, the LEA would not accept an application from the
18 operator until the land transfer with the Bureau of Land
19 Management was established. The land exchange was
20 completed in October of this year.

21 The proposed permit would allow the site to
22 accept up to 20,000 tons per day of municipal solid waste,
23 mostly by rail. It establishes the site area of 4,654
24 acres total with a disposal area of 1,864 acres. It
25 addresses operations of Phases 1 through 4 of the

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1 landfill. It limits the acceptance of wastes to seven
2 southern California counties.

3 And at this time I would like to read into
4 the record some corrections to the agenda item,
5 corrections and clarifications. Page 3-1 under "hours of
6 operation" where it says "up to 24 hours per day", I also
7 would like to clarify that landfilling hours are limited
8 to 16 hours per day. On page 3-2 under "background" in
9 the first bullet, MRC is now 75 percent owned by Kaiser
10 Ventures, Incorporated with the remaining ownership
11 controlled by approximately 50 other parties. On page
12 3-3, top paragraph, I'd like to clarify that the east pit,
13 which is the large pit at the east end of the site, covers
14 all of phase 5 and a portion of phase 4. On the third
15 paragraph down on the same page, 3-3, in the second
16 sentence I would like to say that the ultimate operating
17 area would be 2,262 acres with the first four phases of
18 the landfill comprising 1,860. I also would like to say
19 that phases 1 through 4 consist of 463 million tons of
20 solid waste as capacity.

21 On page 3-4, the fifth paragraph down, I'd
22 like to clarify the situation relative to the agreement
23 between the National Park Service and Mine Reclamation
24 Corporation. The bullet currently says, "Those still
25 opposed locally by the Park Superintendent, MRC reached an

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1 agreement in December '96 with NPS in which NPS agreed,"
2 and I would like to strike the rest of the sentence and
3 say, "In which the NPS agreed that the landfill presented
4 no significant impact to park resources."

5 On the second to last paragraph on the same
6 page, 3-4, it currently says that Judge McConnell found
7 the EIR EIS deficient in December 1997. The actual date
8 was May 1998. The last paragraph on that same bullet says
9 that the applicant subsequently successfully appealed the
10 decision. As I stated earlier, the applicant and
11 Riverside County were involved in that appeal.

12 On page 3-5, second bullet down, last
13 sentence, "The decision to deny the protest was appealed
14 in a decision handed down in September of '99," not
15 "October". The record of the decision was upheld by the
16 United States Interior Board of Land Appeals. The land
17 exchange was completed on October 13th, 1999.

18 Under the "key issue" section, the last
19 section, I also would like to clarify that the project has
20 been subject to a large amount of controversy. I also
21 would like to state for the record that there is some
22 strong local support for the project. On page 3-7 under
23 the "environmental review notes", fourth paragraph down,
24 it says the EIS EIR also identified potential impacts in
25 the areas of "air quality, wilderness experience". I'd

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1 like to strike "visual resources". It goes on to say
2 "biological resources". I would like to clarify that is
3 related to bat habitat. Continuing, "And cumulative
4 impacts to groundwater relative to overdraft and air
5 quality."

6 Same page, second to the last paragraph,
7 the statement of overriding considerations was adopted on
8 September 9th, 1997. Again strike "visual resources" from
9 that sentence, also the last part of that sentence "and
10 cumulative impacts to groundwater overdraft."

11 I believe that is all for the agenda item.

12 CHAIRMAN EATON: Any questions of
13 Mr. Otsubo? No.

14 MR. OTSUBO: I also would like to state
15 that staff of the Office of Local Assistance have
16 determined that the permit is consistent with the
17 description in the County's Siting Element. As the site
18 is not yet operational, there is no inspection to verify
19 consistency with state minimum standards. Staff of the
20 Board's Financial Assurances Section have determined that
21 the closure post-closure maintenance fund mechanism and
22 operating liability requirements have been met. The
23 closer post-closure maintenance plan has been deemed
24 complete. The LEA has certified that the disposal site
25 information and the application package are complete.

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1 As detailed in the agenda item, Board
2 environmental review staff opine that the cited CEQA
3 documents are adequate for -- the CEQA document is
4 adequate for the Board's environmental evaluation of the
5 project for those activities that are within this agency's
6 expertise and/or powers or which are carried out or
7 approved by the Board.

8 Therefore, staff recommend that you concur
9 in the issuance of the proposed permit and adopt Permit
10 Decision 99-624.

11 I also would like to point out that staff
12 have some recommended technical changes to the resolution.
13 I believe Mark is putting the paragraph up for view. It
14 has to do with the fifth "whereas". "Whereas, the
15 Riverside County Board of Supervisors approved the project
16 in September 1997, including a statement of overriding
17 considerations for impacts associated with air emissions,
18 wilderness experience, biological resources, bat habitat
19 and cumulative impacts to air quality regarding
20 non-attainment air basin and groundwater use overdraft."

21 Representatives -- as indicated
22 representatives of the operator will be making a
23 presentation and Laurie Holk of the LEA is again sitting
24 next to me.

25 This concludes staff's presentation.

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1 CHAIRMAN EATON: Any questions of staff?

2 Ms. Nauman, I would appreciate it if and
3 when we do the motion that we could have a copy of that
4 distributed to the Members, if there is going to be a
5 motion, so that if it is to be included as part of the
6 motion, Members can either attach it as part of it --

7 MS. NAUMAN: A copy of what is shown on the
8 screen, yes.

9 CHAIRMAN EATON: Ms. Holk.

10 MS. HOLK: Thank you, Chairman Eaton and
11 Members of the Board. Laurie Holk, Riverside County LEA.

12 I would like to give you a brief
13 presentation of the local process done on this project to
14 get it to this point. The local process was first began
15 in 1989. Between the two sets of EIR meetings, there was
16 approximately 450 total meetings -- scoping, Planning
17 Commission, and Board of Supervisor meetings held.

18 There are two specific plans for this
19 facility -- one for the town site and one for the
20 landfill. A specific plan was done on this at the
21 applicant's request and the county concurrence it is a
22 state-recognized document. It is equal to a master plan
23 of development and is considered part of -- a portion of
24 the General Plan. It is used for lengthy projects as
25 opposed to a CUP. CUPs do not intend to go over 30 years,

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1 and the length of this project is approximately 100 or 110
2 years. It does also include conditions of approval.

3 It includes need for subsequent plot plans
4 but are done on an administrative action which are not
5 subject to CEQA or public hearings. This project also
6 includes a development agreement, also a state-recognized
7 document. It equals the contract between the developer
8 and the local jurisdiction. It includes land use
9 entitlements granted for lengthy time periods and
10 additional financial assurances for the County. It also
11 includes payments to the County and want-to-haves as
12 opposed to have-to-haves, such as at-grade crossings at
13 several of the places where the railroad will go.

14 In the specific plan of the development
15 agreement, the landowner and operator are subject to
16 conditions, and should there be a new landowner or new
17 operator, they must follow the specific plans and
18 development agreement that has already been approved.

19 During the construction process, the LEA
20 will be involved in engineer oversight of the liner
21 installation and other items involved in the construction
22 of the facility. As far as oversight and enforcement, at
23 this point the LEA will be using the staff that we have on
24 board, and we'll be starting out most probably with weekly
25 inspections until we get up and running on this and see

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1 what needs to be done, and then going to the normal
2 monthly inspections.

3 The original development agreement required
4 a daily presence of the County out at the facility, but
5 this also included a low check presence of hazardous
6 materials in that the LEA is also required under the
7 development agreement to go and inspect the MRFs on
8 out-of-county facilities with the cooperation of the other
9 LEAs for those counties to make sure that anything that's
10 coming out has gone through the MRF.

11 That is my presentation at this time unless
12 you have any other questions.

13 CHAIRMAN EATON: Questions of the LEA?

14 Mr. Daniels, welcome.

15 MR. DANIELS: Good morning. Mr. Chair and
16 Members of the Board, my name is Rick Daniels, I'm the
17 President and CEO of Mine Reclamation Corporation. Along
18 with me are a number of MRC executives, attorneys,
19 technical experts, who are available to answer any
20 questions that might come up during the hearing and
21 respond to any comments that are made during the hearing.

22 While I could talk for hours, and I have,
23 about Eagle Mountain in terms of its technical and
24 economic benefits, today I want to focus on three specific
25 areas -- first the site, need for the facility, and the

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1 process that's led us here today.

2 First about the site, I want to ask you to
3 think along with me and conjure up attributes of an ideal
4 land site. First, it must have good geography. It must
5 be in a remote place isolated from population centers.
6 Second, it must have the right climatic conditions, low
7 rainfall amounts, high evaporation rates, favorable wind
8 directions, et cetera. Third, it must have good geology.
9 It must be stable, must be absent of active seismicity,
10 groundwater must be limited and be distant from the lower
11 levels of the waste area. Fourth, it must have good
12 transportation. It should have easy access for rail and
13 major freeway routes, and while it must be remote from
14 population centers, it shouldn't be so remote that
15 transportation is not convenient, feasible or affordable.
16 Fifth, the ideal landfill site must exhibit economies of
17 scale. The site must be of sufficient size to warrant the
18 cost of maneuvering through this permitting process and
19 large enough to support the greatly increased
20 environmental protection and monitoring systems expected
21 in today's facilities.

22 What I've just done is describe Eagle
23 Mountain. Our site possesses all of those characteristics
24 and more. It is a unique site and it is an ideal site for
25 a landfill. Your briefing material that we provided you

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1 provides the technical story of the site. It is remote
2 from population centers, 200 miles east of Los Angeles.
3 It is dry. There's less than three inches of average
4 annual rainfall with over 150 inches of evaporation each
5 year.

6 Unlike most existing landfills in southern
7 California, it's far from the highly seismically active
8 zones. It has existing transportation access. It's near
9 Interstate 10 with rail access on-site, and its size is a
10 regional facility to accept over 20,000 tons a day at
11 maximum flow, 90 percent of which has to arrive by rail.

12 Eagle Mountain is the ultimate recycling
13 project. For over 40 years, 2,000 miners working 24 hours
14 a day, seven days a week, excavated iron ore from the mine
15 and processed the ore into pellets. Those pellets were
16 shipped by open top rail cars to the steel mill in
17 Fontana. Over 1 billion tons of soil, rock and ore was
18 disturbed during those 40 years of mining, leaving behind
19 a massive scar on the face of the earth in the form of the
20 pits, the overburdened piles of rock.

21 Most of the processing facilities have been
22 removed from the site and what remains is the rail line,
23 the roads, the pits, the equipment maintenance facilities,
24 coarse tailing piles, dry fine tailing ponds and other
25 supporting infrastructure, all of which will be used for

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1 the facility.

2 Reclaiming and restoring this site as a
3 non-hazardous Class III Municipal Solid Waste Facility is
4 what Eagle Mountain is all about. As the agency charged
5 with overseeing the disposition of solid waste in this
6 state, you know better than most the need for new disposal
7 options. Existing on-line and leaking landfills permeate
8 this state. The public has expressed growing concerns
9 about the environmental health of their communities. In
10 fact, it is that very public concern that led to the
11 establishment of new regulations in the mid-'80s
12 regulating the siting of landfills and for the first time
13 establishing minimum standards for the construction and
14 operation of landfill facilities.

15 In establishing Subtitle D, the Resource
16 Conservation Recovery Act, USEPA in 1991 stated that they
17 believe that regionalization would play a major role in
18 implementing new environmentally sensitive operations for
19 disposal. They forecasted the small sites would close and
20 communities would join together in cooperative ventures.
21 It has taken more than 15 years to see those regulations
22 fully developed and enacted. During that time, there have
23 been fewer than 10 new modern sanitary landfills to
24 provide the necessary environmental protections permitted
25 and the operating in the state of California. It takes a

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1 long time to fine an acceptable site and secure permits.
2 I stand before you as evidence that it can take 15 years
3 to get through the permitting process.

4 Even though the product that we are
5 discussing and bringing to you today is exactly what the
6 regulations envisioned, the product that we are bringing
7 into the marketplace today is the latest, best available,
8 environmentally sound, pollution controlled technology to
9 allow the transition from the unfortunate status quo to
10 the public health's security that the public has demanded.

11 Month after month you see before you
12 applications for expansion of existing sites, sites
13 located in virgin canyon areas, sites a stone's throw from
14 the ocean, sites next to and surrounded by major
15 population centers, sites that are unlined, located near
16 or on top of major earthquake faults. It goes on and on
17 and on. The sad truth is that until there are better
18 options, these sites will continue to be needed to be
19 expanded and expansions will occur.

20 The Waste Board has before it in Eagle
21 Mountain the opportunity to address the changing disposal
22 need for southern California and provide a better
23 alternative for the future. In the last few years we have
24 seen several major southern California landfills forced to
25 close prematurely before their permits expired or their

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1 capacity was fully utilized. Many of these closures occur
2 because of litigation by adjoining communities and
3 neighborhoods. Other sites were forced to close due to
4 environmental problems resulting in contamination to air
5 and groundwater. These closures have resulted in a loss
6 of nearly 30,000 tons of capacity to the region.

7 A greater shock could be on its way. If we
8 look at the planned closure of existing landfills, the
9 probable failure of some planned expansions and the
10 geographic disfunction of where that space remains, it
11 becomes apparent that we stand on the verge of what some
12 have called the garbage crisis.

13 This is a crisis different than the one
14 that was forecast in the late '80s, which was primarily
15 because of rapid increases in volumes, but instead this
16 crisis will be based upon the overall decline and capacity
17 that's available, and that decline in capacity that's
18 available will be going on through ongoing use,
19 litigation, political action. At the same time, the
20 region could suffer from a lack of new environmentally
21 secure sites such as the regulations now envision and
22 regulations to which we fully comply.

23 For example, using the Los Angeles County
24 Sanitation District's projections, it is very clear that
25 there is a need for Eagle Mountain. The only question is

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1 when. Assuming L.A. County jurisdictions meet their
2 50-percent recycling goals and all planned landfill
3 expansions proposed in Los Angeles County are successful,
4 L.A. County runs out of available disposal capacity in the
5 year 2012. This is the most optimistic projection
6 imaginable and does not account for any new environmental
7 problems at an existing site or any of the other thousand
8 reasons a site open and operating today might not be in
9 the picture in the next five or ten years. If, however,
10 all expansions -- and I mention all expansions -- are not
11 successful, L.A. County runs out of capacity as early as
12 2003. Herein lies the capacity planning dilemma --

13 BOARD MEMBER ROBERTI: What year was that
14 again?

15 MR. DANIELS: 2003. Herein lies the
16 capacity planning dilemma. Do you plan for the most or
17 the least optimistic scenario? In planning for required
18 public health and basic public works infrastructure needs,
19 the agencies need to be prepared for the worst.

20 So what are the options for L.A.? Build a
21 new landfill? Not likely in Los Angeles. What else do
22 they have available to them? Some propose the
23 introduction of new technologies, and although many are
24 untested today and very expensive, they do hold promise in
25 the long-term for reaching the recycling goals, but the

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1 new technology cannot and should not be reviewed as
2 replacing an environmentally safe disposal system.
3 Instead, L.A. County must look beyond their borders to
4 Eagle Mountain.

5 I want to mention another unique feature of
6 the Eagle Mountain project. Only jurisdictions meeting AB
7 939 requirements, only those jurisdictions meeting the
8 definition of AB 939 as put forth by this Board, can use
9 Eagle Mountain. That condition came out of Riverside
10 County's intention to ensure that the introduction of a
11 large amount of new disposal capacity for the region would
12 not provide the disincentive to recycle, a condition and a
13 commitment that we alone among landfills possess.

14 In addition, Riverside County was anxious
15 to stimulate efforts to develop alternative and approved
16 disposal methods. The Supervisors placed a condition on
17 our project that provides for funding for a scientific
18 team at University of California at Riverside to study
19 what happens at Eagle Mountain and to work on new ways to
20 deal with solid wastes in the future. We're committed to
21 work with UCR in this endeavor.

22 I will spend my concluding time before you
23 talking about the process. The Eagle Mountain project
24 submitted to you for your consideration today is not the
25 project originally conceived in the early 1980s by the

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1 founders of MRC. This project is the most exhaustively
2 reviewed, most carefully scrutinized, most heavily
3 conditioned, and as a result what we believe the most
4 technically superior project of its type in the state of
5 California and perhaps anywhere.

6 This project has been through two complete
7 Environmental Impact Report processes, two complete
8 Environment Impact Statement processes, two extensive
9 state lawsuits. It has been reviewed by two Planning
10 Commissions. It's been approved by two different Boards
11 of Supervisors, two different Regional Water Quality
12 Control Boards. The project has been reviewed by the US
13 Department of Fish and Wildlife, California Fish and Game,
14 the Bureau of Land Management, USEPA, the PUC, the South
15 Coast Air Quality Management District. Every regulatory
16 agency that's reviewed this project has approved it.

17 We have met every regulation. We've met
18 every requirement that's been put in front of us. We
19 stand before you after over ten years of effort, over 50
20 public hearings, as putting forward what we think is the
21 most technically superior disposal site that can be
22 designed.

23 We've addressed concerns during those
24 areas -- or during those ten years and those 50 public
25 hearings. We've addressed concerns not technically

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1 required. We've negotiated memorandums of understanding
2 with the Metropolitan Water District. We have an
3 agreement with National Park Service. We've agreed to
4 extraordinary mitigation measures totaling nearly \$200
5 million which include over \$21 million in air mitigations
6 and up to \$6 million annually to establish an
7 environmental mitigation trust for the public purchase or
8 for the purchase of open space habitat and to fund the
9 environmental research that's going to be done at UCR.

10 The Eagle Mountain project is a public
11 process success story. We enjoy the support of hundreds
12 of business and community leaders, labor organizations and
13 the local community as well. We've met every challenge.
14 We've satisfied every regulation. We've informed and
15 involved the community every step of the way. We have
16 listened to genuine concerns and applied sound science and
17 engineering solutions.

18 I stand before you at this point in time
19 with a great deal of pride and sense of accomplishment.
20 We believe that we've earned the support of those who have
21 expressed it in letters to you and from whom you will hear
22 today. We feel we've earned it. As we've demonstrated
23 throughout these many years, we're committed to answer
24 your questions and address any issue to its full
25 resolution. We request at the conclusion of the public

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1 testimony today we be provided an opportunity to respond
2 to comments. We want to be sure the record is clear.

3 I conclude with this comment and this
4 thought. Eagle Mountain is the right project in the right
5 place and at the right time. I respectfully request your
6 affirmative vote. Thank you.

7 CHAIRMAN EATON: Thank you, Mr. Daniels.
8 Any questions of Mr. Daniels? Thank you.

9 I have a number of individuals who would
10 like to speak indicating support of the project.
11 Mr. Leslie Lincolns, Likins. Sorry. It's one of the
12 hazards of the job.

13 MS. LIKINS: It's all right. Good morning,
14 Mr. Chairman and Members of the Board. My name is Leslie
15 Likins. I am a planner with Riverside County Waste
16 Management Department and I'm here this morning at the
17 request of Mr. Robert Nelson, our general manager and
18 chief engineer. It's only illness that keeps him from
19 being here this morning for this very important project.
20 Otherwise, he would want to see this through to the end
21 and see this project leap over that last hurdle in the
22 process here.

23 What he wanted me to convey to you this
24 morning is how important this project is to Riverside
25 County and to urge your support of the project. He bases

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1 that on two things. One is primarily Riverside County
2 faces a shortfall in the Coachella Valley, which this
3 landfill will serve this area. Eden Hill landfill is our
4 primary landfill in that area and it will close at the end
5 of 2003, and at that time there will be that shortfall of
6 waste capacity.

7 We see Eagle Mountain as a long-term
8 disposal alternative and that is primarily why we think we
9 need it. This will also -- the approval of the Eagle
10 Mountain landfill will provide us and other communities as
11 well with the ability to meet AB 939 in 15 years of
12 disposal capacity.

13 The other reason, of course, is that we
14 also found through an extensive process that this was a
15 technically superior landfill. It underwent extensive and
16 lengthy scrutiny at the local government level that
17 resulted in landfill environmental protection and
18 containment systems that we feel are superior to the
19 federal and state criteria for municipal solid waste
20 landfills and even those that we have in Riverside County.
21 During that process it was reviewed, as Mr. Daniels
22 pointed out, on a number of levels, but even so in the
23 county on a number of levels, not only from different
24 county departments and staff, but in addition we had third
25 party technical reviewers and contractors reviewing it.

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1 During this last process, the waste
2 management department contracted with HDR Engineering,
3 Incorporated to provide the independent technical review
4 of the joint EIS and EIR. They examined and evaluated all
5 the technical reports, including the report of waste
6 discharge. They examined materials designed in
7 constructability of the landfill liner system, the
8 leachate collective systems, the gas systems, against the
9 background of the site's geologic, seismic, geotechnical
10 and hydrologic conclusions. They concluded that the
11 landfill liner and environmental protection systems, if
12 installed properly, would function as designed and that
13 those systems represented conservative designs which met
14 and/or exceeded all of the current regulations, and our
15 department engineers also made similar findings.

16 It was also reviewed by the local task
17 force a number of times, and if I could just read into the
18 record their findings. "Approval of the Eagle Mountain
19 landfill will provide Riverside County and its residents
20 with 4 to 8 million tons of additional capacity for the
21 next 15 years. Due to the increased capacity in
22 conjunction with the terms of the Eagle Mountain landfill
23 development agreement that ensure the cost-effective
24 disposal can be provided to county residents, greatly
25 assist Riverside County and surrounding counties in

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1 achieving AB 939 regulatory objectives and securing
2 long-term 15-plus years of disposal capacity for waste
3 that will not be diverted through recycling, reduction or
4 transformation. And the Eagle Mountain landfill design
5 meets and substantially exceeds Title D standards. We
6 urge your support of the project."

7 Lastly, I've been asked to read into the
8 record this morning and submit to you a letter from one of
9 our Supervisors of Riverside County Mr. Tom Mullen, if I
10 may do that. I was asked that I read the letter into the
11 record. It is addressed to Chairman Eaton. "I'm writing
12 to urge your approval of the Eagle Mountain landfill
13 project. As a member of the Riverside County Board, I
14 participated in the review and ultimate approval of the
15 Eagle Mountain landfill. I can assure you and your
16 colleagues on the Waste Board that the Eagle Mountain
17 landfill project is the most heavily scrutinized project
18 in Riverside County history. Riverside County needs the
19 capacity that Eagle will provide. In addition, we are
20 anxious to work with officials in Los Angeles County and
21 other surrounding counties to implement rail haul as soon
22 as possible. The benefits of rail haul in the form of air
23 quality improvements and traffic enhancements for the
24 region are very important for the long-term quality of
25 life we are seeking for our constituents.

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1 "Through the extensive environmental review
2 process conducted for this project, we identified and
3 required extensive mitigation for Eagle Mountain to ensure
4 potential impacts would be addressed. As a result, I
5 believe Eagle Mountain will be a valuable and contributing
6 asset for our county. I want to assure the Waste Board
7 that a number of key conditions we placed on this project
8 were driven by our commitment to good public policy
9 including only jurisdictions in compliance with AB 939 can
10 use Eagle Mountain; all waste must go through a materials
11 recovery facility or transfer station which will enhance
12 recycling efforts; an environmental mitigation trust will
13 be established funded by Eagle Mountain to generate up to
14 \$5.4 million per year for the purpose of open space and
15 environmental research; alternative technologies research
16 will be funded by Eagle Mountain and conducted by the
17 University of California in Riverside in conjunction with
18 Riverside County and the project developer; finally, the
19 County required extraordinary financial assurances, well
20 beyond state mandates. The Eagle Mountain project will
21 provide long-term, environmentally safe disposal capacity
22 for our county and the southern California region.

23 "I respectfully urge the Board to concur in
24 the issuance of the final permit for this project.
25 Sincerely, Tom Mullen."

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1 Thank you very much.

2 CHAIRMAN EATON: Thank you. We'll make
3 that part of the record.

4 Mr. Ronald Bitonti, I believe it is.

5 MR. BITONTI: Good morning, Mr. Chairman
6 and Members of the committee. My name is Ron Bitonti.
7 I'm chairman of the New Kaiser Volunteer Employees'
8 Benefit Association, better known as VEBA, a non-profit
9 trust of 7,000 retirees of Kaiser Steel and their
10 dependents who lost lifetime medical benefits through
11 bankruptcy of Kaiser Steel Corporation. 90 percent of
12 these retirees reside in California.

13 I just want to remind you all of the very
14 real human story behind this project and over the 10-year
15 process it has been through. When we started with this
16 project in the 1980s, there were over 7,000 retirees
17 looking to Eagle Mountain for the long-term protection of
18 their benefits. I'm here to deliver the message on their
19 behalf that Eagle Mountain is a good project that deserves
20 your support. VEBA is also the largest shareholder of
21 Kaiser Ventures, the owner of the land proposed for
22 development of the Eagle Mountain project.

23 Our interests in this proposed Eagle
24 Mountain project are clear. We stand behind Kaiser
25 Ventures and Mine Reclamation Corporation and their

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1 commitment to build an environmentally sound project that
2 will serve southern California's solid waste disposal
3 needs for many years to come. The project before you
4 today is the result of over 10 years of review by numerous
5 local, state and federal agencies.

6 I want to point out just a few points for
7 your consideration. One, the project site is not pristine
8 desert, but rather a site left devastated by 40 years of
9 mining. It is an ideal site for a non-hazardous municipal
10 solid waste landfill. Two, MRC and Kaiser have bent over
11 double to meet every regulation, to respond to every
12 question, change the project where possible, and agreed to
13 expand mitigation measures to address all concerns.
14 Three, southern California is facing a critical shortage
15 of environmental sound landfill capacity. Capacity
16 projects projections conclude that there will be a need
17 for at least two regional sites such as Eagle Mountain in
18 the next 20 years.

19 Four, regarding the location of Joshua
20 National Park, keep in mind Kaiser and Joshua Tree have
21 been good, amicable neighbors for over 40 years. When the
22 California Desert Protection Act was passed designating
23 Joshua Tree as a national park, the legislation
24 contemplated the Eagle Mountain project. The intent of
25 the legislation was not to impose additional requirements

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1 on the project or to create buffer zones around it. You
2 won't be able to see the project from any highly visited
3 area, hear it, smell it, or otherwise be impacted by the
4 project from inside the park.

5 In summary, VEBA believes that the Eagle
6 Mountain project has been reviewed enough. On behalf of
7 the 7,000 retirees, we urge you in concurrence of the
8 permit before you. Thank you for your time.

9 CHAIRMAN EATON: Thank you. Any questions
10 of Mr. Bitonti? Thank you, Mr. Bitonti.

11 Shane Gusman.

12 MR. GUSMAN: Good morning. Shane Gusman,
13 Law Offices of Barry Broad on behalf of the teamsters.
14 I'll be very brief.

15 The teamsters have supported this project
16 from its inception. We believe it makes sense. As
17 southern California has experienced rapid growth, the once
18 remote landfills are now in the midst of our population
19 centers. This project is an intelligent solution to that
20 problem and we continue to support it and urge your
21 approval of it.

22 Thank you.

23 CHAIRMAN EATON: Thank you, Mr. Gusman.

24 Last slip that I have in support is Lester
25 Wilson. Mr. Wilson.

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1 MR. WILSON: Chairman Eaton and Members of
2 the Board, I am Lester V. Wilson. I am a resident of the
3 Desert Center area. I own a residence there. I live
4 there six months of the year. I have lived there six
5 months of each year for the last ten years, so obviously I
6 like the area. I intend to continue living there.

7 Because of the manner in which this
8 landfill is to be constructed, used and monitored, I see
9 absolutely no risk whatsoever to the quality of life that
10 we've experienced at Desert Center and that causes us to
11 love the place.

12 In fact, our local area, Desert Center and
13 Eagle Mountain and surrounding desert, has a problem that
14 this landfill would solve. I think the lady from
15 Riverside County told you about it. Our local landfill is
16 probably going to be closed very soon. That means that
17 the alternative solutions to handling the local waste are
18 going to be difficult and they're going to be expensive.
19 We're very fortunate indeed that this landfill project
20 comes along now because it will offer us a convenient and
21 economical solution to our local waste problem.

22 So as a resident of Desert Center, I urge
23 this Board to give its approval of this project.

24 Thank you.

25 CHAIRMAN EATON: Thank you, Mr. Wilson.

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1 All right. I have two speaker slips in
2 opposition.

3 Helen Wagenvoord.

4 MS. WAGENVOORD: It's Wagenvoord. It was a
5 good first try.

6 Good morning. As I stated, my name is
7 Helen Wagenvoord and I represent the National Parks
8 Conservation Association, America's only non-profit
9 private citizens organization dedicated solely to
10 protecting, preserving and enhancing the United States
11 national park system. Founded in 1919, NPCA currently has
12 over 400,000 members, including nearly 70,000 in
13 California.

14 We have been working to prevent the
15 construction of the Eagle Mountain landfill outside Joshua
16 Tree National Park for several years. Our initial
17 concerns sprang from the fact that one of the largest
18 landfills in the world was about to be sited a little over
19 a mile from Joshua Tree National Park and surrounded on
20 three sides by congressionally designated wilderness.

21 Joshua Tree National Park is one of our
22 nation's crown jewels. It's 794,000 acres protecting some
23 of the most pristine desert land in the world. The Eagle
24 Mountain dump and associated facilities would take up to
25 20,000 tons of trash a day for up to 117 years, and in so

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1 doing, degrade habitat critical to the desert big horn and
2 threatened desert tortoise, obscure desert vistas,
3 exacerbate air pollution, destroy important wilderness
4 values in Joshua Tree National Park, and irreversibly
5 alter the desert ecosystem by importing waste food, water
6 and alien species.

7 Additionally, rather than meeting critical
8 waste management needs, this landfill we suspect is likely
9 to saturate southern California's demand for landfill
10 capacity, drive down landfill fees, and thereby undermine
11 compliance with the legislative mandate to divert 50
12 percent of California's waste out of landfills into
13 recycling. In other words, the Eagle Mountain landfill
14 poses a serious threat to both sustainable waste
15 management and one of California's most popular national
16 parks.

17 Given the magnitude of the threats of this
18 landfill to one of our nation's treasures, the National
19 Park Service is also opposed to this project, counter to
20 what is stated in Agenda Item 3, page 4. In fact, in the
21 referenced 1996 document, NPS deliberately stated its
22 opposition to the Eagle Mountain landfill. In light of
23 this error, the National Parks Service has sent a letter
24 to the Board and I will also submit a copy of that same
25 letter with my testimony. This letter clarifies the

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1 National Parks Service's historic and continued opposition
2 to this project.

3 We were recently joined in our concern by
4 Attorney General Bill Lockyer, who supported the petitions
5 for Supreme Court review of the Eagle Mountain court case
6 as a friend of the court because he was not convinced the
7 Appeals Court had adequately addressed the issue of
8 significant impacts under the California Environmental
9 Quality Act.

10 Our concerns are not just specific to the
11 park. Eagle Mountain is also a stunning example of what's
12 terribly wrong with waste management in California. State
13 legislation mandates reduction of California's waste
14 stream by 50 percent next year. Statewide we've already
15 witnessed encouraging progress towards that goal, but this
16 last gap between where we are and where we need to be will
17 be the most challenging to achieve. It requires the most
18 intelligent waste management decision making.

19 Here we have a proposal for a
20 mega-landfill, the likes of which this country has never
21 seen, that is competing for the same waste stream as
22 Mesquite. Mesquite has already had to struggle for
23 contracts. Furthermore, Los Angeles, one of Eagle
24 Mountain's potential primary clients, is recently in the
25 process of reopening a Granada Hills landfill, which would

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1 accommodate all of Los Angeles's trash for the next 26
2 years. It is clear that the Eagle Mountain landfill --

3 BOARD MEMBER ROBERTI: Mr. Chairman.

4 CHAIRMAN EATON: Senator Roberti.

5 BOARD MEMBER ROBERTI: Yes. I have to
6 interject there since I'm fairly acquainted with the
7 Sunshine Canyon landfill, which is a fairly well-run
8 landfill, but surely National Parks doesn't want to
9 juxtapose a landfill in a highly populated area as being
10 on par with a landfill in an isolated area as just
11 something that, you know, we should verily accept.

12 MS. WAGENVOORD: I guess the point that I
13 just want to make is that there are proposals for
14 accommodating southern California's --

15 BOARD MEMBER ROBERTI: But those are very
16 difficult proposals, they're not easy, and with all due
17 respect, they're not things that we can sort of side-off,
18 we have this, this and this so why have Eagle Mountain.

19 The Granada Hills landfill is in one of
20 the most populated areas of southern California. There
21 are few places where there are more people, and without
22 wanting to get into an editorial comment of whether that's
23 a good or bad thing, it's not on a genre as Eagle Mountain
24 which is terribly, terribly isolated, and it is something
25 this Board has to take into consideration.

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1 MS. WAGENVOORD: I guess my bottom line,
2 the point that I would just urge the Board is making sure
3 that these various proposals and whatever moves forward --
4 I'm not going to advocate for Sunshine Canyon.

5 BOARD MEMBER ROBERTI: I understand that.

6 MS. WAGENVOORD: But just making sure that
7 there's coordination here and that the landfill capacity
8 that is provided for for southern California is what's
9 needed rather than in excess of that. So that's my bottom
10 line.

11 BOARD MEMBER ROBERTI: Can you address as
12 well the issue, which I believe one of the proponents for
13 Eagle Mountain stated, and that was that landfill capacity
14 in Los Angeles is going to -- in Los Angeles County will
15 be filled by the year 2003, and with the additional fact
16 that I know of that the reason why we're actually even
17 getting 2003 is that because of Orange County's bankruptcy
18 problems, L.A. is shipping its trash to Orange County,
19 who's getting the tipping fee. Please address that.

20 What do we do? With all the recycling
21 programs that we all share a devotion to, what do we do?

22 MS. WAGENVOORD: I guess what I would say
23 in response to that is I've heard mixed things about when
24 that landfill capacity in California will truly -- when
25 there's going to be a need for additional landfill

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1 capacity and I've heard widely ranging estimates. So I
2 guess I would just encourage the Board to look very
3 closely at the numbers and make sure you're operating with
4 the most accurate numbers that you can have would be my
5 response to that. Bottom line, just looking for a
6 decision that's coordinated with the goals of AB 939 and
7 also considering the various aspects of the various sites,
8 whether it's near one of our most treasured national parks
9 or near a metropolitan area. Given what you've just
10 described, it doesn't surprise me there would be
11 controversy around that one as well.

12 But just the bottom line is there's a very
13 thoughtful decision behind what goes forward. And I would
14 also add that Mesquite is competing for the same waste
15 stream as Eagle Mountain and that potentially is offering
16 redundant landfill capacity that has similar
17 characteristics to the Eagle Mountain site.

18 So on that point, this raises several
19 concerns. How does this potential saturation drive down
20 the cost of landfilling, making it cheaper to use
21 landfills and discourage alternatives in waste reduction?
22 We've seen MRC cut their tipping fees in half, and the
23 looming prospect of this landfill caused regional
24 landfills to lower their own tipping fees. On that note,
25 how will this impact smaller operational landfill

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1 operators? What about businesses that depend on recycling
2 and recyclable materials?

3 The proponents state that they will only
4 take garbage if it has been previously processed in
5 accordance with the requirements of AB 939. However,
6 we're not clear on the mechanism that would ensure
7 implementation of this guideline. According to the EIR
8 for this project initially, trash will not be sorted
9 because the facilities necessary for accomplishing 939
10 goals don't exist.

11 We also understand that the company intends
12 to use materials recovery facilities, MRFs. Our articles
13 have shown that several mixed waste processing facilities
14 are failing to meet their own projections, which were well
15 below 50 percent. Fundamentally, based on current
16 information, we see the establishment of this landfill as
17 an action that will ultimately undermine rather than
18 promote the goals of AB 939. Given the potential
19 shakiness of the market needs for Eagle Mountain, we're
20 not surprised to see that the company has applied for \$200
21 million in tax-free, low-interest revenue bonds from the
22 California Pollution Control Finance Authority.

23 We will be surprised if the CPC provides
24 these monies to support a landfill that will potentially
25 undermine the success of the toxic pollution projects

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1 these revenue bonds are supposed to support. The
2 company's need for these bonds also points out the fact
3 that there are no major investors in this project.
4 Browning-Ferris Industries pulled out of this project
5 several years ago. However, these bonds may permit MRC to
6 lure investors and not back this project on its own
7 merits. Therefore, we do wonder about the company's
8 financial ability to provide for closure and 15 years of
9 post-closure maintenance as required by Section 43600 of
10 the Public Resources Code.

11 Finally, I wish to bring to the Board's
12 attention that the water permit was appealed because the
13 proposed leachate collection system at this landfill is
14 highly questionable. It's simply not equipped to handle a
15 storm flood event and will likely result in the leaking of
16 discharge into a sensitive desert region.

17 We also wish to make it abundantly clear to
18 the Board that this project touts itself as the
19 reclamation of an old iron ore site. In fact, the mine
20 pits at the site will not be used for trash for nearly a
21 hundred years. For the first century of its operation,
22 this project will involve the destruction of what are now
23 pristine desert canyons near Joshua Tree National Park.

24 We appeal to the Board to carefully
25 consider the decision before you, and in honor of your

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1 vision to best serve the public, the economy and the
2 environment of California and your mission to reduce the
3 generation and improve the management of solid waste in
4 California, we urge you to not grant this permit.

5 CHAIRMAN EATON: Thank you. Any questions
6 of Ms. Wagenvoord?

7 BOARD MEMBER JONES: Mr. Chairman.

8 CHAIRMAN EATON: Mr. Jones.

9 BOARD MEMBER JONES: I don't want to get
10 into too much discussion, but CPCFA financing, that money
11 is set aside for either low-interest loans for builders or
12 for industries such as the one I come from. I had a
13 pretty solid company, but I went to CPCFA financing
14 because of its low-interest money, and that was what that
15 money was put there for. If your information is that you
16 go for CPCFA financing because you can't get investors, I
17 ran the fourth largest garbage company in the world that
18 was privately owned. We went to CPCFA financing for MRFs,
19 landfill construction, all sorts of things.

20 The idea of that money is to try to provide
21 environmental protection on those types of projects that
22 are going to benefit the people of California. So I just
23 want to -- if people are telling you that it's because --
24 I don't know what their financial status is as far as
25 investors, but to make that leap that you go for CPCFA

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1 financing because you don't want to have people to invest,
2 they're giving you the wrong information.

3 MS. WAGENVOORD: Right. And I guess the
4 point I want to underscore and that you already made is
5 that bottom line, that there's an attention of that kind
6 of funding to provide for projects that are
7 environmentally sensible. So -- thank you.

8 CHAIRMAN EATON: Thank you.

9 The last speaker slip that I have is for
10 Mr. Rick Best, Californians Against Waste. Do you need to
11 submit that letter? Right here. Thank you.

12 MR. BEST: Thank you, Chairman Eaton and
13 Board Members. Rick Best with Californians Against Waste,
14 and I believe the Secretary is distributing the letter
15 that we had actually faxed in earlier, but --

16 CHAIRMAN EATON: And that was passed out
17 before.

18 MR. BEST: It was. Great. Thank you.

19 CHAIRMAN EATON: Per your request.

20 MR. BEST: Thank you very much. We are
21 here, and similarly with the previous comments of
22 Ms. Wagenvoord, urging the Board to not concur in this
23 permit at this point. I think as we all know, there's a
24 tremendous change in the approach to disposal in
25 California. We're seeing a lot of shift from closing a

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1 lot of old landfills that were leaking, smaller landfills,
2 to going to large regional landfills. And we think
3 there's certainly some merits to that in terms of
4 establishing landfills that are much more state-of-the-art
5 and consolidated and I think to some extent removed from
6 population centers. I think there's definitely some
7 benefit here. But we're very concerned with this proposed
8 permit and some of the other mega-landfills that have been
9 proposed in terms of the impact these facilities are going
10 to have on the amount of capacity in California.

11 When you take a look at the numbers that
12 this facility is proposing, you know, 20,000 tons daily,
13 7.3 million tons annually, that's a fifth of the disposal
14 that was going on in this state last year. That's a major
15 increase in the amount of disposal capacity in California.
16 When you take a look at the length of life of this
17 landfill, anywhere from 84 to 122 years, we're talking
18 about a major, major increase in the length of capacity
19 for the southern California area, and we think that's
20 going to have a significant impact on the ability of this
21 state and the priorities for AB 939.

22 I think it's of no surprise that what we've
23 already seen since AB 939, a significant increase in the
24 amount of landfill capacity, and as a result it's driven
25 tipping prices down. When AB 939 was passed, everyone

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1 expected tipping prices were going to be going up and yet
2 we've seen tipping prices go from \$34 a ton in '96 to \$31
3 in '98. So we're seeing an effort by companies needing to
4 compete for waste in order to draw material and feed the
5 landfills that have been expanded over the last couple of
6 years. We think that creating this landfill is only going
7 to exacerbate that problem.

8 I think Mr. Roberti raised concerns about
9 what is the Board's approach in terms of landfill
10 capacity, and we fully recognize that the Board needs to
11 be looking at that and unfortunately right now the Board
12 has not been doing that. I think there's been a couple of
13 landfill capacity studies that have been done in '92 and
14 '95, but since that time there's been no ongoing
15 monitoring of landfill capacity, and at a minimum that's
16 got to be a top priority of this Board, is looking at
17 landfill capacity and what's going on in the state, but I
18 think the Board needs to take it a step further in terms
19 of looking at how landfill capacity impacts diversion
20 rates, impacts tipping fees, and making sure that the
21 expansion of landfills are tied to the disposal needs of
22 California, that there should be a limit on the daily
23 tonnage or the length or the size of an expansion, tied to
24 the disposal needs based upon a regional basis.

25 None of those kind of activities are

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1 currently going on, and we think that ought to be a policy
2 of this Board. If that requires a legislative change or
3 if that's part of the talks of the reformation of Cal/EPA
4 that are currently being discussed, perhaps that's the
5 point of discussion for doing that, but I think at this
6 point it's premature to be approving a massive landfill
7 expansion as being proposed at Eagle Mountain based upon
8 the impacts that it is going to have, the very severe
9 impacts it's going to have on the promotion of recycling
10 priorities in the southern California area.

11 So I realize this is the last stop in the
12 process, but we think at this point the Board ought to
13 hold off in terms of its endorsement of this project.

14 CHAIRMAN EATON: Thank you.

15 Ms. Moulton-Patterson and Senator Roberti.

16 BOARD MEMBER ROBERTI: Thank you,
17 Mr. Chairman. I absolutely agree with the thrust of
18 Mr. Best's argument, and I certainly have no objection if
19 the Board chooses to engage in another -- a more current
20 landfill capacity inventory, but I do want to state for
21 the record that I am hearing this issue and will be voting
22 on it based on my own very extensive number of visits to
23 most of the landfills in Los Angeles County, most of the
24 agencies and organizations that operate them and most of
25 the engineers that are in charge of them. And therefore

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1 for the record, I want to state I'm not voting in the dark
2 based on inadequate information, and the overwhelming
3 information that I have received for Los Angeles County is
4 that we are fast approaching the dead-end and that in Los
5 Angeles County, we, as I pointed out earlier but I want to
6 emphasize, have been able to save the capacity of Puente
7 Hills, which is the largest landfill only because our
8 neighboring county, Orange County, went bankrupt. And it
9 was news to me on the first month, Mayor
10 Moulton-Patterson -- the first month that I was on the
11 Board, Orange County's taking L.A.'s waste? When in the
12 world would you ever think that would happen? Not only
13 are they taking it, they want it. This was a revelation
14 to me.

15 CHAIRMAN EATON: And they're getting paid.

16 BOARD MEMBER ROBERTI: When the mathematics
17 were explained, I understood full well. That's not going
18 to last forever. I might even say that Orange County is
19 starting to get nervous where their waste is going to go
20 when they get filled up because Orange County is not
21 desirous of too many other heavy developments in that area
22 because the open space is depleting, witnessed by the
23 fight over the airport.

24 Los Angeles, Orange County, the entire
25 southern California area is losing fast and its urbanized

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1 area is open space. There is no place to go. There's no
2 place to build anything. It's, in my mind, a necessary
3 evil. I hate to call anything an evil. It is a necessary
4 evil that we have to find capacity elsewhere while we wind
5 our way to try to reduce the amount of waste that's
6 generated.

7 I don't know of any other option, but I
8 want to absolutely stress that even if we don't have the
9 most current waste disposal landfill statistics that I as
10 a Member, and I'm sure the other Members as well, are not
11 voting in the dark. We have done our homework. We have
12 made our extensive tours and studies and talked to umpteen
13 hundreds of people, and there's just no place to go in
14 southern California.

15 MR. BEST: If I could respond.

16 CHAIRMAN EATON: Mr. Best.

17 MR. BEST: Senator Roberti, I think you are
18 certainly well aware when AB 939 was being drafted that
19 there was a projected landfill crisis in southern
20 California at that time, and I think we saw that there
21 were expansions of landfills that took place. There was
22 diversion programs that went into place, and we were able
23 to preserve landfill capacity to this point to where we
24 are now.

25 So I think to suggest that southern

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1 California isn't going to be able to find landfill
2 capacity and that we're going to be dumping garbage in the
3 ocean or some other --

4 BOARD MEMBER ROBERTI: I didn't say that.

5 MR. BEST: -- preposterous -- I realize you
6 didn't suggest that, but I think the fact is southern
7 California is a very large community and is going to find
8 landfill capacity when it needs it.

9 I think the concern that I just want to
10 reiterate is that up to now, the Board has not made any
11 effort to monitor landfill capacity, to plan for it and to
12 look at how those -- the development of landfill capacity
13 impacts diversion rates and the compliance with AB 939.
14 The fact is the Board has already approved Mesquite
15 landfill, and here we are considering the approval of
16 another mega-landfill, and what is the cumulative impact
17 of having those landfills.

18 It was stated that as part of this project
19 there's a restriction or a requirement that the landfill
20 only take material from communities that meet the AB 939
21 requirements, but I don't think any of that has really
22 been specifically defined. I was at a meeting of the
23 Southern California Association of Governments last week
24 where it was discussed as to what is the meaning of that
25 and it was stated by the project proponents that it was

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1 well, it would just simply be whether the Board imposed
2 penalties against the jurisdiction.

3 Well, we all know at this point the Board
4 has not imposed penalties against any jurisdictions for
5 failure to meet the 25-percent requirements, much less the
6 50-percent requirements. The Board is in a process of
7 entering into compliance orders, but if the criteria of
8 whether or not you are in compliance is simply whether or
9 not the Board has imposed penalties, there's a lot of
10 communities that are going to be well below the
11 25-percent, perhaps the 50-percent requirement. They're
12 clearly not meeting the goals of AB 939, and yet based
13 upon that statement that their criteria will be simply
14 whether or not the Board will impose penalties, all these
15 jurisdictions will be continuing to be able to use this
16 facility.

17 I think that there's some well-meaning
18 language that's out there, but I don't think there's any
19 real thoughtful and enforceable mechanism to ensure the
20 communities are meeting the AB 939 requirements and that
21 this landfill doesn't produce an over-capacity that's
22 going to encourage further waste in southern California.

23 CHAIRMAN EATON: Mr. Jones.

24 BOARD MEMBER JONES: Thanks, Mr. Chairman.

25 I think you need look at this -- or we need

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1 to look at this a little bit on a regional basis. Right
2 now, with the landfill capacity that's in L.A., vehicles
3 go from point of generation to landfill. They do not go
4 through the infrastructure in a lot of cases. They don't
5 go through Material Recovery Facilities. They are going
6 directly from point of generation. That's why a lot of
7 cities' numbers are going down.

8 The fact that Mesquite -- and actually Rick
9 Daniels made a mistake. Mesquite's landfill has the same
10 condition that I think Imperial County put on them, was
11 that they could only accept material from compliance
12 cities and AB 939 that went through a MRF, but -- so the
13 two -- but I think that sends a tremendous message that
14 the two mega-landfills, large regional landfills are going
15 to take care of southern California's waste, have got a
16 requirement that not only the jurisdiction be in
17 compliance with AB 939, and the fact that we've put 63
18 cities on compliance orders, was by law the step we had to
19 take before we ever got to fines.

20 I think that as part of their compliance,
21 it's the fact they're working towards getting to the 25
22 percent, but anyway, if now that material doesn't -- if
23 those haulers don't have the opportunity to go directly to
24 a landfill and deposit their waste in 40-yard front
25 loaders, 25-yard rear loaders, what they're going to do is

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1 bring it to an infrastructure that's going to cull out the
2 recoverable recyclables. It's going to also look for
3 materials that are household hazardous waste, hazardous
4 waste, to do a load check, load it on some kind of -- in
5 some kind of container and haul it either to Mesquite or
6 Eagle Mountain. It's clearly going to benefit your
7 mission of AB 939, our mission of AB 939 and having cities
8 be compliant because those haulers are not going to have
9 the opportunity to escape the infrastructure.

10 I was talking to somebody the other day
11 about AB 939 and what that law has really aspired to, and
12 while we have a lot of work to do on "buy recycle", we
13 have landfills that are saying we're only going to accept
14 waste from compliant cities. To me that's really taking
15 our message all the way from point of generation and
16 everything around it with recovery to ultimate disposal of
17 the residual.

18 So I see it -- it's like one -- I
19 understand your message and I think your message is
20 accurate. You and I actually sat on the landfill capacity
21 study back in '95 and I think this Board has continued to
22 do that, but when there's 45 tons of material that's got
23 to find a residual home in the L.A. County area after
24 those jurisdictions have met 50 percent, and if those two
25 facilities represent 30 percent for the next 10 years --

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1 or 30,000 tons for the next 10 years and 40,000, they're
2 still going to have to find a place for 5,000 or 6,000
3 tons of waste somewhere between the L.A. County line and
4 Imperial and Riverside County.

5 MR. BEST: I think if the requirement that
6 these communities be AB 939 compliant truly meant that
7 they were meeting the 50-percent requirement, I think that
8 would certainly give a little bit more clarity, but from
9 the comments I heard simply being whether or not the Board
10 imposes a penalty as being their criteria, I didn't hear
11 that as being the requirement.

12 Nevertheless, I think it's still
13 appropriate for the Board that regardless of whether these
14 communities are in compliance, that the Board ought to be
15 in a position of looking at landfill capacity and to the
16 extent that increasing landfill capacity drives down
17 prices and leads to greater disposal than there otherwise
18 would have been. I think that's an appropriate role for
19 this state, particularly looking at regional impacts. You
20 know, when communities approve landfills in their
21 community, they're looking at a jurisdictional, at a local
22 basis. They're not looking at regional or statewide
23 impacts, and I think there's an appropriate role for the
24 state to be doing that.

25 BOARD MEMBER JONES: Right. But I think

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1 one of CAW's things has always been there's too much
2 low-cost disposal, and my point about going from generator
3 to a \$19 a ton disposal, these facilities are going to
4 require higher tipping fees which are going to promote the
5 need to recover as much as possible so you're not sending
6 as much residual down the line.

7 MR. BEST: I think that there may be an
8 increased tipping fee, but when these facilities were
9 being proposed, they were being talked about \$65 a ton.
10 At the meeting I was at last week they were talking about
11 \$24 a ton at Puente Hills landfill. That's less than
12 statewide disposal, so I don't think we're talking about
13 anything that's out of the ordinary.

14 CHAIRMAN EATON: Mr. Best, I think given
15 your points this morning, I know that you're very busy.
16 We always get the letters late. I know you're right. The
17 last study, and I've checked on it, was back then. Let me
18 just assure you because I wanted to deal with the permit
19 today -- but let me assure you that I would like, with the
20 Board's approval, to direct Mr. Chandler that in February
21 we put an agenda item on. We're going to be in southern
22 California, Members, if you remember. I think we're
23 hoping Santa Clarita, but there may be a change in
24 location, and that we deal with the landfill capacity
25 issue, some of the issues that you talked about because it

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1 will also be timely as a result of the Cal/EPA
2 reorganization because that report, I believe, is due
3 January 10th.

4 If we have a hearing in February, I don't
5 believe there's going to be any action probably on that
6 report by the legislature by mid-February. I think I can
7 say that with some assurance based upon my past
8 experience, but more importantly I would like to expand
9 the discussion because the issue is really sort of ironic
10 that it's a law of unintended consequences.

11 We had a lack of landfill capacity in the
12 late '80s and we put 939 together, and one thing we do is
13 we have now somewhat landfill capacity and sort of -- I
14 think you look at some of the consequences, but more
15 importantly, some of the members of the legislature that
16 I've spoken with with regard to the new environmental
17 justice issues that surround the issue have to be brought
18 into the discussion and the location, whether they be in
19 populated areas or urban areas.

20 So Mr. Chandler, with the concurrence of
21 the Board, if we can deal with at least a large agenda
22 item, and if you could help us with some of the things
23 that you think are necessary for that discussion with
24 Mr. Chandler, that we can begin that. That doesn't help
25 you today. I understand that.

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1 I want you to know that the points are
2 valid that were raised, and that's the kind of issues that
3 I've seen at least in my short tenure on the Board where
4 the Members here that currently sit on this Board have
5 been willing and actually anxious to take on these issues
6 because we aren't really sure of all of the consequences
7 that have taken place with regard to 939. You see that
8 right now. You see the nervousness out there in the
9 community. With that, I want to get back to the permit.
10 That doesn't help you with perhaps today, but hopefully it
11 will help you --

12 MR. BEST: Right.

13 CHAIRMAN EATON: -- with what we need to
14 do, and it would be in southern California so we should
15 have a large, large audience.

16 Okay. I have no other further speakers.
17 Mr. Daniels, do you have any comments?

18 MR. DANIELS: Just briefly, two quick
19 points. I'll submit for your -- for the record a letter
20 from the Attorney General in which he says, "I did not
21 express opposition to the Eagle Mountain project," and
22 second of all also to clarify that the appeal to the Water
23 Board was denied on December 10th, so there is no
24 outstanding objection at the Water Board level.

25 CHAIRMAN EATON: Thank you.

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1 BOARD MEMBER PENNINGTON: Mr. Chairman.

2 CHAIRMAN EATON: Mr. Pennington. I think
3 Ms. Moulton-Patterson, did you have something?

4 BOARD MEMBER MOULTON-PATTERSON: I just
5 wanted to comment.

6 CHAIRMAN EATON: A comment from
7 Ms. Moulton-Patterson.

8 BOARD MEMBER MOULTON-PATTERSON: You can
9 go ahead.

10 CHAIRMAN EATON: Mr. Pennington. I'm
11 sorry.

12 BOARD MEMBER PENNINGTON: I'll move
13 adoption of Resolution 1999-624 with the appropriate
14 findings to indicate that the Board has found the proposed
15 permit to be consistent with the California Environmental
16 Quality Act, in conformance with the intent of the County
17 Integrated Waste Management Plan, meeting all local and
18 state permit requirements, consistent with state minimum
19 standards, and therefore concur in the proposed permit.

20 CHAIRMAN EATON: Mr. Pennington, if you
21 would kindly -- if you wouldn't mind revising your motion.
22 If you remember, we had a --

23 BOARD MEMBER PENNINGTON: That's right.

24 CHAIRMAN EATON: We had an amended
25 resolution.

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1 BOARD MEMBER PENNINGTON: Right.

2 CHAIRMAN EATON: It doesn't say amended on
3 it, but it should be for purposes of that and I will mark
4 it as Resolution 1999-624 as amended because that did
5 include the paragraph, if I'm not mistaken.

6 BOARD MEMBER PENNINGTON: Right. I'll move
7 adoption of Resolution 1999-624 as amended.

8 CHAIRMAN EATON: Thank you very much.

9 BOARD MEMBER PENNINGTON: With all the
10 appropriate findings.

11 CHAIRMAN EATON: Second?

12 BOARD MEMBER MOULTON-PATTERSON: I'll
13 second it, and I would like to make a comment.

14 I did visit Eagle Mountain. I spent
15 Saturday, December 4th out there because I did have some
16 concerns, and I am also one of your members of the
17 National Park and Conservation Association and it was
18 really important for me to go out and see it.

19 I truly don't think it is a threat to
20 Joshua Tree National Park, which is one of my very
21 favorites. I think -- and I am supporting this because I
22 think there is a great need in southern California. As
23 Senator Roberti stated, the situation with Orange County
24 is temporary. It's a temporary financial fix for Orange
25 County and it's not going to last forever, and Orange

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1 County is going to have their own waste problems in the
2 not too near future.

3 I also wanted to -- just one of the things
4 that made me feel better about it is that I know the Eagle
5 Mountain representatives worked very hard with Senator
6 Feinstein and worked with her office and made sure that
7 there were not threats to the desert protection, and I
8 feel very comfortable at this point casting my vote for
9 it.

10 CHAIRMAN EATON: Okay. We have a motion
11 before us.

12 Madam Secretary, please call the roll.

13 BOARD SECRETARY: Board Members Jones.

14 BOARD MEMBER JONES: Aye.

15 BOARD SECRETARY: Moulton-Patterson.

16 BOARD MEMBER MOULTON-PATTERSON: Aye.

17 BOARD SECRETARY: Pennington.

18 BOARD MEMBER PENNINGTON: Aye.

19 BOARD SECRETARY: Roberti.

20 BOARD MEMBER ROBERTI: Aye.

21 BOARD SECRETARY: Chairman Eaton.

22 CHAIRMAN EATON: Aye.

23 Thank you very much, ladies and gentlemen,
24 and we need to take a long overdue break for the court
25 reporter. Say 15 minutes, and we will return at

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1 approximately 11:35.

2 Thank you.

3 (Brief recess taken)

4 CHAIRMAN EATON: We have a few items. I
5 believe that there's eight. For those of you who are
6 remaining, it should be noted for the record that
7 Mr. Pennington has now exceeded his record of wearing a
8 tie for longer than 24 hours. He's here twice wearing a
9 tie, so the record is duly noted.

10 Any ex parte communications to report?

11 Mr. Pennington.

12 BOARD MEMBER PENNINGTON: I spoke to Nancy
13 Burt and John Cupps and Scott Gordon.

14 BOARD MEMBER JONES: Al Marino and Steve
15 Maguin. That was it.

16 CHAIRMAN EATON: Ms. Moulton-Patterson.

17 BOARD MEMBER MOULTON-PATTERSON: Nancy Burt
18 and Steve Maguin.

19 CHAIRMAN EATON: I said hello to Nancy
20 Burt, Scott Gordon, the Eagle Mountain group. I think
21 that was it. Okay.

22 Mr. Fitzgerald, Item 26.

23 MR. FITZGERALD: Mr. Chairman and Board
24 Members, I may be wearing a tie but I certainly can't
25 match Mr. Pennington and his ties.

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1 The first item we have --

2 CHAIRMAN EATON: He informs me that it's
3 now your time.

4 (Laughter)

5 MR. FITZGERALD: Consideration of the
6 adoption of a waste tire storage exclusion regulations or
7 the emergency regulations.

8 MR. SMITH: Hi. For the record my name is
9 Terry Smith with the Special Waste Division.

10 I'd like to first of all call your
11 attention to the resolution. We passed out a revised
12 resolution for this item yesterday, I think. We've
13 corrected some typos is all.

14 Item 26 is for your consideration. If you
15 adopt these regulations that we have out, it will
16 permanently remove the troublesome waste tire facility
17 permit exclusions from Title 14, California Code of
18 Regulations.

19 Back in 1998, the Board determined that the
20 indoor storage recycling business and the general
21 exclusion needed to be removed from regulations.
22 Difficulties with tracking the movement of the tires, as
23 well as environmental and public health and safety issues
24 resulting from improper tire storage, prompted the Board's
25 decision. The Board directed staff to prepare and submit

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1 a statement of emergency and emergency regulations to the
2 Office of Administrative Law, or OAL, to remove the
3 troublesome exclusions. OAL approved the emergency
4 regulation June 16th, 1998.

5 Since emergency regulations expire unless
6 they are made permanent through the formal adoption
7 process, the Board at the July 27th, 1999 meeting directed
8 staff to initiate the formal adoption process by putting
9 the regulations out for 45-day comment period. The
10 comment period ended Monday, December the 13th, 1999.
11 Staff did not receive any comments opposing the regulation
12 package.

13 In conclusion, staff recommends that the
14 Board formally adopt the emergency regulations by
15 approving the waste tire storage exclusion regulations and
16 adopting Resolution Number 1999-613.

17 CHAIRMAN EATON: Any questions of staff?
18 Okay.

19 BOARD MEMBER PENNINGTON: Mr. Chairman.

20 CHAIRMAN EATON: Mr. Pennington.

21 BOARD MEMBER PENNINGTON: I'll move
22 adoption of Resolution 1999-613 as revised, the waste tire
23 storage exclusion regulations.

24 BOARD MEMBER JONES: Second.

25 CHAIRMAN EATON: Mr. Pennington moves and

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1 Mr. Jones seconds that we adopt Resolution 1999-613.

2 Madam Secretary, please call the roll, and
3 we can't do a substitution because Senator Roberti is not
4 here, but he will be able to add on when he arrives. He
5 had to do a couple of things.

6 BOARD SECRETARY: Board Members Jones.

7 BOARD MEMBER JONES: Aye.

8 BOARD SECRETARY: Moulton-Patterson.

9 BOARD MEMBER MOULTON-PATTERSON: Aye.

10 BOARD SECRETARY: Pennington.

11 BOARD MEMBER PENNINGTON: Aye.

12 BOARD SECRETARY: Roberti.

13 Chairman Eaton.

14 CHAIRMAN EATON: Aye.

15 CHAIRMAN EATON: Aye. Item Number 27.

16 MR. FITZGERALD: Item Number 27 is

17 consideration of approval to begin a formal 45-day comment
18 period for revisions to regulations pertaining to the used
19 oil recycling program, and Mr. Bob Boughton will present
20 this item.

21 MR. BOUGHTON: Good morning, Mr. Eaton and
22 Board Members. I'll give you a little bit of background.
23 Our current program regulations have been in place since
24 1995. Since that time there have been a few changes in
25 law. We've heard lots of comments from constituents in

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1 the regulated community and lots of requests from them.

2 We found the need to provide some new
3 procedures and clarify a lot of existing regulation
4 sections, and upon review we found many unnecessary
5 sections that just weren't useful anymore, some
6 duplication of statute, and also a lot of repetitiveness.
7 So we tried to address all of those issues in putting
8 together drafts.

9 We've had drafts in one form or another
10 available for over a year on the web site, and through
11 other meetings we've had two informal workshops this
12 October in northern and southern California. We received
13 some comments during those. The most recent period
14 incorporated a lot of comments from other staff members
15 from all affected programs at the Board.

16 Now we're ready to bring this package to
17 the Board for approval today to begin the formal adoption
18 process. I did want to note one thing. I mistakenly
19 included a resolution in the item, and today there's no
20 need for a formal approval at this time because we're
21 simply asking the Board to approve initiating a formal
22 adoption process and not to adopt the regulations at this
23 time. We will be back for that after the formal comment
24 period and through the formal process.

25 CHAIRMAN EATON: Any objection to having

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1 the 45-day comment period begin for the revision? Hearing
2 none, so shall be ordered. Thank you.

3 Item Number 28.

4 MR. FITZGERALD: Item Number 28 is the
5 consideration of approval of scope of work for the
6 1999-2000 fiscal year tire remediation contract under the
7 waste tire stabilization and abatement program, and just a
8 few introductory words on this one.

9 It's pretty much a repeat of previous
10 years' contracts. There is one item in this, however, the
11 Board may be interested in, and it's added into the
12 contract that the prime contractor must use competitive
13 means in selecting the subs for individual sites.

14 There are some pros and cons in taking this
15 approach. On the negative side it does remove some of the
16 flexibility from the prime contractor in how they do the
17 work, and it also could create a situation where the
18 subcontractors contest the selection and delay the
19 project. On the plus side, it does allow us to spread our
20 money, if you will, around among different contractors in
21 trying to keep the industry alive. There's a lot of small
22 contractors involved in this, and excluding them from
23 extended periods of time could very easily drive them out
24 of business. Another plus is that the competitive bid
25 process could very easily let us have a lower cost in our

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1 cleanup if we competitively bid each individual site.

2 So the staff looked at both sides, the
3 pluses and the minuses, and the recommendation we're
4 bringing before you is to allow or to require a
5 competitive bid process for the individual sites. Now,
6 this will not allow -- it will not require the prime to
7 follow the state contracted rules. It merely means they
8 have to have a reasonable competitive process, and this
9 process was done with prior contracts. Sukut, who had the
10 contract for Norcal, did use the competitive process in
11 selecting the subs without any apparent problem in doing
12 it.

13 With that, I'll turn it over to Bob Fujii
14 to go through the item.

15 MR. FUJII: Good morning, Members of the
16 Board, Chairman Eaton. For the record, Bob Fujii with the
17 Special Waste Division. I'll be presenting Item Number 28
18 which is the consideration of the scope of work for the
19 1999-2000 fiscal year tire remediation contract under the
20 waste tire stabilization abatement program.

21 As you know, back on August 24th, 1999, the
22 Board adopted Resolution 1999-289 which approved the
23 fiscal year tire allocation, which included the funding
24 for the stabilization abatement contract in the amount of
25 up to \$3.6 million. The purpose of this item is to allow

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1 the Board to approve the scope of work which will then
2 allow the staff to proceed with sending this contract out
3 to bid.

4 Generally the type of work done under the
5 contract are divided into four basic areas -- waste tire
6 stabilization abatement, site work, fire control and
7 vector control. The typical task in each of these are
8 shown in attachment one, and you have that in the item
9 there. I'm not going to read all the tasks, but in
10 general the waste tire abatement are tasks required to do
11 the actual processing and removal of the waste tires from
12 the site. Site work is generally grading and drainage
13 control, slope stabilization, erosion control and
14 installation of fencing, that kind of thing.

15 Fire control and runoff damage control are
16 tasks that will implement fire prevention and suppression
17 measures like vegetation clearing around the perimeter of
18 the site and installation of fire suppression equipment,
19 if it's necessary.

20 The last area is vector control, and these
21 are basically tasks to control insects and rodents and to
22 also assess how any existing vector control measures taken
23 by the R/Ps or the owners of the site have had cleanups
24 done by us. In other words, if there are pesticides or
25 other things on the tires that we need to be aware of,

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1 we'll take appropriate precautions.

2 Generally speaking, the scope of work for
3 this fiscal year 1999-2000 contract will be about the same
4 as our previous contract, but as Fitz mentioned, one of
5 the major changes is that we are going to be requiring
6 successful contractors to incorporate a competitive bid
7 process for each of the sites that are remediated under
8 the contract. In doing this, we anticipate that we'll be
9 able to match funds in the contract used to remediate
10 waste tire sites and for all the reasons that he mentioned
11 previously as well.

12 At this point we would recommend the Board
13 approve the scope of work for fiscal year 1999-2000 waste
14 tire stabilization remediation contract, and that
15 basically concludes my presentation unless there are any
16 questions.

17 CHAIRMAN EATON: Thank you. Any questions
18 of Mr. Fujii?

19 BOARD MEMBER JONES: Mr. Chairman.

20 CHAIRMAN EATON: Mr. Jones.

21 BOARD MEMBER JONES: Through my briefing I
22 asked what was the per-tire cleanup under the prime and
23 subcontractor work versus the last one.

24 MR. FUJII: Right. You know, we did some
25 analysis and all the information is not back from Norcal.

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1 From the information that we have now, what I'm going to
2 do is give you a breakdown kind of pile size and what the
3 difference is between the way we have done business in the
4 past and under the Norcal contract. So going from top to
5 bottom, from piles that we have cleaned up that are in the
6 zero to 10,000 tire range under Sukut, which was a
7 subcontract arrangement, as you will recall, those two
8 prior contracts before the one we just awarded to Norcal,
9 Sukut Construction had that and did go ahead and do the
10 subcontracting arrangement for the tire remediation parts
11 of the projects, and the cost to the state using that type
12 of process was about \$2.06.

13 BOARD MEMBER JONES: \$2.06.

14 MR. FUJII: Per tire, and then for Norcal,
15 on similar sized piles it's been about \$2.17. Going to
16 the next size tire pile which is in a range of 10,000 to
17 50,000 tires, under Sukut we have a cost of about \$1.23 a
18 tire and under Norcal about \$1.60. And in the next range
19 of tires, which we're going to skip a little bit here and
20 go to the next larger pile, which is 100,000 tires to a
21 million tire size, Sukut was \$1.06 and Norcal was about
22 \$1.20. There's ranges in here that Sukut did some work
23 for us and Norcal didn't, so I'm not going to give you
24 those numbers. Generally speaking, the average cost per
25 tire under Sukut was about \$1.17 and under Norcal about

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1 \$1.24.

2 BOARD MEMBER JONES: Okay. And then one
3 other question. If -- a little history, just to provide a
4 little history. Back when we were doing it the other
5 way --

6 CHAIRMAN EATON: As long as it's not a
7 revisionist history, Mr. Jones, I'm fine with that.

8 BOARD MEMBER JONES: It's not a
9 revisionist. Every time that one of these -- Sukut put
10 out one of these bids, we would get phone calls from five
11 subs that did not get the bid and claim that they had been
12 misinformed, weren't given all the information. So Board
13 Members were able to deal with this on a pretty regular
14 basis.

15 I guess my next question would be because
16 of the sophistication of our staff and the fact it's a
17 little bigger staff than it used to be, why do we need a
18 prime contractor? Why can't you guys put out these
19 things, get 10 subs, 20 subs, I don't care how many subs,
20 let them prequalify that you know they can do the work,
21 and then tell them here's tire pile "A". Have a staff out
22 there, have them give you a price. Because you've always
23 got staff on-site. Maybe we knock out 30 percent or 40
24 percent of our cost per tire by managing it ourselves.

25 MR. FITZGERALD: Mr. Jones, I find myself

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1 in a very unusual position here because I advocated that
2 for years until we started the cleanup of the Filbin site.
3 Our prime contractor is an engineering contractor, and the
4 subcontractors are usually not engineering contractors.
5 They're usually just people that have flatbed trailers and
6 front end loaders that can move tires.

7 I will have to say that I have changed my
8 position on that because we were able to go immediately
9 and use our contractor to do some remediation work that
10 required a great deal of engineering work at the site,
11 which we had would not have been able to do had we used a
12 direct contracting method.

13 BOARD MEMBER JONES: That's on the Filbin
14 site.

15 MR. FITZGERALD: That's correct.

16 BOARD MEMBER JONES: But I don't think
17 those conditions exist on all the other tire piles in the
18 state. Do they?

19 MR. FUJII: I guess the answer is yes and
20 no. There have been some sites where we have to go back
21 and do some grading and some drainage work on piles, that
22 we've basically taken a slope out to get the tires out.
23 So yes, in those situations we needed that kind of a
24 contractor or engineering contractor to do the work for
25 us.

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1 We anticipate we'll probably have those
2 situations again. I think it's an advantage for the Board
3 to have that capability and resources available to them to
4 respond to things like Filbin, or even on a day-to-day
5 basis on sites like Secret Town or Chetman Pass (phonetic)
6 where we had situations that are complicated where a tire
7 contractor in and of itself would probably not be able to
8 meet our needs. My understanding in talking to contracts
9 is that the process is complicated because we're bound by
10 doing business under the state contracting process. It's
11 long and it's a little cumbersome, and if we were to go
12 out and bid each of these projects individually in trying
13 to award and us being the prime, it would take us a lot
14 longer to do it is my understanding.

15 BOARD MEMBER PENNINGTON: The state
16 contracting procedures make this -- make it very difficult
17 for us to do it the way that --

18 MR. FITZGERALD: That's correct.

19 BOARD MEMBER PENNINGTON: -- Mr. Jones and
20 I would like.

21 CHAIRMAN EATON: Okay. Any other
22 questions?

23 BOARD MEMBER PENNINGTON: I'll move
24 adoption of Resolution 1999-585.

25 CHAIRMAN EATON: Okay. I'll second it.

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1 Mr. Pennington moves and Mr. Eaton seconds
2 that we adopt Resolution 1999-585.

3 Madam Secretary, would you please call the
4 roll.

5 BOARD SECRETARY: Board Members Jones.

6 BOARD MEMBER JONES: Aye.

7 BOARD SECRETARY: Moulton-Patterson.

8 BOARD MEMBER MOULTON-PATTERSON: Aye.

9 BOARD SECRETARY: Pennington.

10 BOARD MEMBER PENNINGTON: Aye.

11 BOARD SECRETARY: Roberti.

12 BOARD MEMBER ROBERTI: Aye.

13 BOARD SECRETARY: Chairman Eaton.

14 CHAIRMAN EATON: Aye.

15 Okay. Senator, we just -- I left open
16 Item Number 26, if you want to add on or if you don't have
17 any ex partes, and on Item Number 27 --

18 BOARD MEMBER ROBERTI: I had
19 meet-and-greets.

20 CHAIRMAN EATON: That's what we did, too.

21 BOARD MEMBER ROBERTI: On people involved
22 with Eagle Mountain, Terry Egan, Nancy Burt, Kay Hazen.

23 CHAIRMAN EATON: I had Kay Hazen. I just
24 said "the Eagle Mountain group."

25 BOARD MEMBER ROBERTI: And the Eagle

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1 Mountain group, and some other very nice gentleman who
2 said he's known me for years, but --

3 CHAIRMAN EATON: Jim McDermott.

4 BOARD MEMBER ROBERTI: Mr. McDermott.

5 BOARD MEMBER PENNINGTON: Sounds like a
6 country western team, "the Eagle Mountain boys."

7 CHAIRMAN EATON: Senator, I left open Item
8 Number 26, if you would care to vote on that --

9 BOARD MEMBER ROBERTI: Yes.

10 CHAIRMAN EATON: -- Item 26, and all we did
11 on Item 27 was to just direct the staff to allow it to go
12 out to comment period and nothing necessary.

13 BOARD SECRETARY: Board Member Roberti.

14 BOARD MEMBER ROBERTI: Aye.

15 CHAIRMAN EATON: Item Number 29.

16 MR. FITZGERALD: Item Number 29 is
17 consideration of approval of award of contract to
18 Sacramento County for the Northern California Rubberized
19 Asphalt Concrete Technology Center, and Ms. Lin Lindert
20 will give you that item.

21 MS. LINDERT: Good morning. This item has
22 a history with the Board. In September 1999, you
23 allocated \$320,000 to fund the Northern California
24 Rubberized Asphalt Concrete Technology Center. On
25 November 1999 Board meeting, you approved the scope of

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1 work for this center. The Board also has an agreement
2 currently with the L.A. County to continue the activities
3 of the center in southern California, so there will be a
4 geological boundary. They will deal with promoting
5 rubberized asphalt concrete in southern California, and
6 the northern center will do the same type of work in
7 northern California. A renewal of this contract will go
8 before the Board in January of 2000.

9 Local government really represents a bulk
10 of the rubberized asphalt concrete use potential, and the
11 Board -- we feel, staff feel, that local government
12 talking to local government is the best way to promote
13 this. They have the expertise. Sacramento County has
14 quite a history of using rubberized asphalt concrete and
15 the expertise and the technological ability to do this.

16 They first laid their rubberized asphalt
17 concrete in 1988, and they've recycled more than 350,000
18 waste tires in this process. You approved the scope of
19 work last time. I'm not going to go through that, but I
20 would recommend that you approve Resolution 1999-628,
21 approval of the award of contract to Sacramento County for
22 the Northern California Rubberized Asphalt Concrete
23 Technology Center.

24 CHAIRMAN EATON: Thank you. Any questions?
25 Hearing none.

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1 BOARD MEMBER JONES: Mr. Chairman.

2 CHAIRMAN EATON: Mr. Jones.

3 BOARD MEMBER JONES: I would like to move
4 adoption of Resolution 1999-628, consideration of approval
5 of award of contract to Sacramento County for the Northern
6 California Rubberized Asphalt Concrete Technology Center.

7 CHAIRMAN EATON: I'll second the motion.

8 Mr. Jones moves and Mr. Eaton seconds that
9 we adopt Resolution 1999-628.

10 Without objection, we will substitute the
11 previous roll call. Hearing no objection, so shall be
12 ordered.

13 Item 30 was on the consent calendar
14 yesterday. We dealt with that. Item Number 31, which is
15 just scope of work, Mr. Fitzgerald. I don't know if
16 there's any --

17 BOARD MEMBER JONES: That was on consent.

18 MR. FITZGERALD: 31 is on consent.

19 CHAIRMAN EATON: You're right. We're
20 trying to do color schemes up here and it doesn't always
21 work. 30 and 31 were done. 33. We both had it wrong.
22 Dan, we both had it wrong.

23 BOARD MEMBER PENNINGTON: You're right. We
24 did.

25 CHAIRMAN EATON: Item Number 33.

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1 Mr. Weiss.

2 MR. WEISS: Good morning, Chairman and
3 Board Members. My name is Mitch Weiss with the Board's
4 Administration and Finance Division. I am presenting the
5 1999-2000 used oil opportunity grant awards. The program
6 staff from the used oil household hazardous waste sections
7 are here to answer any questions that you may have.

8 We received 37 applications requesting
9 almost \$12 million. The review process involved three
10 review panels consisting of four staff. Panel members
11 reviewed and scored each application individually and then
12 met as a group to reach a consensus on the single score
13 for each criterion and the total final score.

14 Each application had to receive 70 out of a
15 hundred points to be considered for funding. 15
16 preference points were also available for applications
17 receiving a passing score of 70. After the scoring was
18 completed, the blind review application scores were
19 evaluated. In all cases, the three review panels had the
20 same funding recommendation for each application.
21 However, the point differential ranged from nine to three
22 points.

23 Supervisors from the used oil program and
24 the financial assistance branch met and decided to
25 recommend option one, the awarding of the grants as scored

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1 because the scores of the blind review application pointed
2 to no major inconsistency, and using the scores of any of
3 the three panels would not have affected their
4 recommendations to fund or not fund these proposals.

5 Based on the results of this blind review
6 and other recent cycles, staff has concerns that the blind
7 review may not be the best way to ensure scoring
8 consistency. Staff are looking at refining the blind
9 review process, and if need be come back to the Board for
10 approval with the new or modified approach to ensure
11 scoring consistency.

12 Staff recommends Board approval of option
13 one, to adopt staff's recommendation and award
14 \$6,372,584.98 for opportunity grants as presented in
15 attachment two, and approve revised Resolution Number
16 1999-610.

17 That concludes my presentation. Are there
18 any questions?

19 CHAIRMAN EATON: Any questions? I just
20 have one. You said "revised resolution." I have -- is
21 there a notation on the resolution because mine just says
22 610.

23 MR. WEISS: The revised ones say "revised"
24 in the upper right-hand corner.

25 CHAIRMAN EATON: Board Members, do you have

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1 them in your packets?

2 BOARD MEMBER ROBERTI: Mr. Chairman.

3 CHAIRMAN EATON: Senator Roberti.

4 BOARD MEMBER ROBERTI: On this item for
5 future reference, probably not so much for these awards, I
6 would hope that we have a more vigorous green buying
7 policy and sort of give everybody notice, maybe like the
8 next grants we're going to be voting on six months from
9 now. I don't quite know that we have a policy where our
10 green incentive, which we voted a few months ago, be
11 something more than the minimal amount of paper that's
12 recycled. From I understand it's not too much more that
13 the agencies --

14 CHAIRMAN EATON: Are required.

15 BOARD MEMBER ROBERTI: -- are required to
16 do. So maybe if they know there's no grants coming unless
17 we see something a little bit more significant, it will be
18 a little bit of a prod to move them. So maybe you could
19 in the future come back with some recommendations to us,
20 for example, in January or February, so that we can notice
21 applicants for the next series of contracts that this is
22 the action the Board is going to be taking and no green,
23 no money.

24 BOARD MEMBER PENNINGTON: No green, no
25 green.

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1 BOARD MEMBER ROBERTI: No green, no green.

2 There you go.

3 BOARD MEMBER JONES: Mr. Chairman.

4 BOARD MEMBER ROBERTI: I'm done.

5 CHAIRMAN EATON: Mr. Jones.

6 BOARD MEMBER JONES: The preference
7 criteria for green was only three points. Maybe we ought
8 to look at having a discussion -- we do every once in a
9 while have these discussions before the Board -- maybe
10 look at the criteria and we bump up green procurement to
11 be a 15-point column. They may get the message at some
12 point that we're serious about this.

13 MR. WEISS: Senator Roberti, is what you're
14 looking for a separate item addressing --

15 BOARD MEMBER ROBERTI: I was sort of
16 looking for your coming back with a suggestion of how we
17 notify the entities that we're going to do this, but I
18 think maybe Mr. Jones's 15 percent is a notification. I
19 don't think it has to be a big letter. The point is --
20 however, I guess we should -- and I think that in and of
21 itself is more than a few sheets of recycled paper.

22 CHAIRMAN EATON: How much is left to be
23 allocated?

24 MR. WEISS: This is the last -- this is the
25 main grant program for the oil coming forward this year,

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1 the block grants. Next year we start --

2 CHAIRMAN EATON: When you say "next year",
3 I need to know because what I'm trying to do is combine
4 what Mr. Jones and Senator Roberti said so that before we
5 have an item that comes up and gives money out, we have an
6 opportunity to recorrect the criteria before it goes out.
7 I think that's what I was hearing both these gentlemen
8 talk about.

9 BOARD MEMBER ROBERTI: And I'm not anxious
10 to change myself anything that we have in the hopper for
11 today.

12 CHAIRMAN EATON: We can't, so what we would
13 like to do is --

14 MR. WEISS: The criteria for non-profit
15 grants will be coming before the Board in March.

16 CHAIRMAN EATON: Okay. And that would be
17 the next opportunity --

18 BOARD MEMBER ROBERTI: Then that's the time
19 to do it.

20 CHAIRMAN EATON: So that answers your
21 question in terms of is it a special item or not. What we
22 want is when any item is brought forward within these
23 confines, that we have that. We wouldn't want to cause
24 you any additional work.

25 BOARD MEMBER JONES: Mr. Chairman, just a

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1 question. March is when the item comes forward that
2 you're going to ask our permission to notice that, or
3 that's when the awards are coming forward?

4 MR. WEISS: The criteria.

5 BOARD MEMBER JONES: Okay. No problem. I
6 just wanted to make sure.

7 MR. WEISS: So that would be the
8 opportunity to change --

9 BOARD MEMBER JONES: Okay.

10 BOARD MEMBER PENNINGTON: Would you also
11 deal with the review process at that time that you talked
12 about, going from a blind --

13 MR. WEISS: That will partially depend on
14 the household hazardous waste grants that we're reviewing
15 right now and some of the other cycles. We're
16 experimenting with something a little different with
17 household hazardous waste. Based on how that goes, we'll
18 look at if we need to try that with more cycles or bring
19 something before the Board then.

20 BOARD MEMBER PENNINGTON: Okay.

21 CHAIRMAN EATON: One more thing, Senator,
22 that I would ask and Mr. Sowell just pointed out is we
23 deal with a lot of these criteria. So, Senator, and
24 Mr. Jones if you'd like as well, maybe we should make it a
25 standard practice that we want to look at all the criteria

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1 along the green procurement line as all of them. So I
2 don't want you to think the Board asked you to do this one
3 and not do all of the others.

4 MR. WEISS: I understand that. No problem.

5 CHAIRMAN EATON: Okay. All right. So I'll
6 move Resolution 1999-610 as revised in Item Number 33,
7 attachment two.

8 BOARD MEMBER PENNINGTON: Second.

9 CHAIRMAN EATON: All right.

10 Mr. Eaton moves and Mr. Pennington seconds
11 that we adopt Resolution 1999-610 as revised in agenda
12 Item 33, attachment two.

13 Without objection, we'll substitute the
14 previous roll call. Hearing no objection, so shall be
15 ordered. Thank you very much.

16 Item Number 34, rulemaking.

17 Mr. Block.

18 MR. BLOCK: Good afternoon, Chairman Eaton
19 and Board Members. To make the afternoon, I'll try to
20 make this quick. Elliott Block from the Legal Office, and
21 I'm going to make a short presentation here about the
22 consideration of approval of the 2000 rulemaking calendar
23 for the Board.

24 Very briefly, on a yearly basis -- and
25 before I start actually, we did distribute copies of the

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1 draft rulemaking calendar to each of your offices on
2 Monday and I should make sure that everybody received
3 those.

4 Briefly, there's a requirement yearly on
5 all state agencies to compile a rulemaking calendar that
6 we submit to the Office of Administrative Law that lists
7 all the potential regulation packages for the coming year.
8 They publish that on a yearly basis, and so that's the
9 reason this item is coming forward before you.

10 The Legal Office this year compiled the
11 rulemaking calendar based on input from the various
12 divisions of the Board. Very quickly, I'm not going to go
13 through the individual packages unless you have some
14 questions. There are 22 rulemaking packages listed. 18
15 of them are carried over from the 1999 calendar, the ones
16 that are still ongoing. So what we've done is revise the
17 projected dates, and in a couple of cases the staff
18 assigned has been changed. And there are four new
19 rulemaking packages on that calendar. They're the first
20 four on the list under the heading subject "Schedule A"
21 and those are based on legislation that was passed in
22 1999.

23 A couple of very important items regarding
24 the calendar itself -- those are projected dates. The
25 Board is not actually bound by those dates, and so if they

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1 need to be revised during the course of the year, that can
2 occur. The Board may add new packages during the course
3 of the year if they were not reasonably anticipated. So
4 if something happens in March or April of next year, for
5 instance, and there's a need to add some additional
6 packages, this calendar would not prevent that, and in
7 fact last year we did add a couple.

8 With that, unless you have any questions,
9 my presentation is done.

10 CHAIRMAN EATON: Thank you, Mr. Block.
11 Questions?

12 MR. CHANDLER: Mr. Chairman. Over here.

13 CHAIRMAN EATON: Not used to that voice
14 this meeting.

15 MR. CHANDLER: Elliott, the C&D regs.

16 MR. BLOCK: Yes.

17 MR. CHANDLER: I'm scanning this and I just
18 want to -- we spent a year trying to get clarity on that.
19 The Board asked that we bring it back and start the
20 process anew. Where are they on here?

21 MR. BLOCK: They are on --

22 MR. CHANDLER: Okay. Schedule B,
23 Permitting and Enforcement.

24 MR. BLOCK: The first item on Schedule B.

25 MR. CHANDLER: All right. I didn't catch

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1 that. Thank you, Mr. Chairman.

2 CHAIRMAN EATON: Thank you. All right.

3 Mr. Pennington I think was --

4 BOARD MEMBER PENNINGTON: I'll move
5 adoption of Resolution 1999-632 to approve the calendar
6 year 2000 annual rulemaking calendar.

7 BOARD MEMBER JONES: I'll second.

8 CHAIRMAN EATON: Mr. Pennington moves and
9 Mr. Jones seconds that we adopt Resolution 1999-632, the
10 approval of the rulemaking calendar.

11 Without objection, we'll substitute the
12 previous roll call. Hearing no objection, so shall be
13 ordered.

14 Last item on this month's agenda is Item
15 35, which is the status update on the Westley tire fire.
16 I think we have a short video.

17 MR. FITZGERALD: Mr. Chairman, Byron
18 Fitzgerald.

19 CHAIRMAN EATON: You now want to set your
20 Guinness Book of World Records.

21 MR. FITZGERALD: A picture is worth a
22 thousand words, so we have a video on what's going on at
23 the site right now. Tom Brokaw was supposed to narrate
24 it, but he wasn't available on the dates so we had an able
25 stand-in.

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1 (Video presentation)

2 CHAIRMAN EATON: I think, Members, what we
3 had talked about earlier was bringing this video there
4 because the pipe and all the winterization, that long pipe
5 was done before the rains got there, and contrary to what
6 anyone tells you it was really money that we did to put
7 all of that kind of engineering and other things together
8 and give us a chance. Because we have a closed session
9 this afternoon, I thought it would be good we had a visual
10 so since it was important. So if there are any questions
11 of Mr. Fitzgerald.

12 BOARD MEMBER PENNINGTON: Mr. Chairman, I'd
13 like to comment that I'm tickled to see what's going on
14 there. When I came to this Board four and a half years
15 ago, I was astounded by that pile back up in that canyon,
16 and it had always been my hope that by the time I left it
17 would be gone. I didn't envision it would be set on fire
18 or that it would catch on fire and that that's the way it
19 would be gone, but I'm pleased to see that it is slowly
20 but surely being taken care of and moved out of there.

21 I think we as a Board can be proud of what
22 we've done and the staff certainly can, and our
23 contractors have done an excellent job. I think our
24 on-site staff, as well as our staff here, have done a good
25 job since that thing caught on fire.

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1 CHAIRMAN EATON: And perhaps --

2 BOARD MEMBER PENNINGTON: It's a pleasure
3 for me to maybe see the end of that thing.

4 CHAIRMAN EATON: I think you're absolutely
5 right.

6 Mr. Fitzgerald, if you can perhaps, maybe
7 in January, bring us a list of the staff's names who have
8 operated, some who have been there every day I understand
9 since the fire, Mr. Fujii and others -- I don't want to
10 mention too many names -- it would be helpful if you could
11 do that.

12 MR. FITZGERALD: I'd be pleased to.

13 CHAIRMAN EATON: If we could keep the video
14 around for our closed session just in case any of the
15 Members would want to make a reference to it or any visual
16 point.

17 MR. FITZGERALD: The video actually runs
18 for another five minutes, but I thought that gave you the
19 flavor of what it was.

20 CHAIRMAN EATON: Thank you. Anyone on the
21 public comments area of our agenda? Hearing none, seeing
22 none. Members, thank you very much for the year. Happy
23 holidays. Remind everyone that I believe tomorrow
24 afternoon we have the annual third floor open house
25 starting at 2:30. So for those Board staff who haven't

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1 gone to lunch yet, please make sure you stop by and let
2 everyone know. So happy holidays.

3 Mr. Jones.

4 BOARD MEMBER JONES: Mr. Chairman, just
5 real briefly. Board Member Pennington started our meeting
6 off yesterday by saying that it could be his last Board
7 meeting, and for that matter it could be my last Board
8 meeting, but I want to address some of the things that
9 Mr. Pennington said before we end this meeting, when
10 appropriate to start a meeting, by telling you just how
11 much I think your efforts have meant to this Board and the
12 success of the programs and your team's efforts in keeping
13 this agency moving forward over your tenure and the last
14 year. I appreciate it. I have said it publicly I knew
15 you had a lot to do with me getting appointed. I've
16 enjoyed working with you and hopefully you'll be back next
17 month, but if not, congratulations. It was our honor.

18 BOARD MEMBER PENNINGTON: Well, thank you.

19 BOARD MEMBER ROBERTI: Before you say
20 anything, I want to say something nice about you, too.
21 And if you talk before I do, then forget it.

22 (Laughter)

23 CHAIRMAN EATON: Since he's on the right,
24 I'm going with him.

25 (Laughter)

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1 BOARD MEMBER ROBERTI: Both to my friends
2 Members Pennington and Jones, I've learned so much by
3 serving on the Board with you. This is a very fascinating
4 subject matter, frankly far more fascinating than I would
5 have dreamed before I came on. So I've learned from both
6 of you quite a bit, and for that I appreciate it and I
7 especially appreciate just the friendly atmosphere, the
8 friendly demeanor, the hard work and the devotion to duty
9 that you exemplify, the both of you.

10 But frankly, one good thing about the
11 Governor's slight slowness in filling positions is that
12 I'm fully confident that I'm probably going to see both of
13 you without any regard to reappointments, certainly for
14 January. Hey, with a little bit of luck it may last
15 longer. But if that's not the case, if that's not the
16 case, and I don't expect that Member Pennington is going
17 to be reappointed by a Democrat, he's just too notorious a
18 Republican, you'll be very much missed if we don't see you
19 in January. Just to get the chance and say it before it
20 might happen.

21 BOARD MEMBER PENNINGTON: Thank you.

22 CHAIRMAN EATON: All right.

23 BOARD MEMBER PENNINGTON: Let me just make
24 one quick comment.

25 CHAIRMAN EATON: Mr. Pennington.

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1 BOARD MEMBER PENNINGTON: I want to thank
2 both of you for your kind words. And Steve, it's been a
3 pleasure to serve with you and I must say that I have been
4 very fortunate to serve with very fine people -- Paul
5 Relis and Senator Chesbro, Sam Egigian, and all of the
6 people that have come along it's been a pleasure to be
7 with, and as I said Bob Frazee, Janet Gotch. So I've had
8 a lot of good, fun people and I want to reiterate and
9 appreciate how kind you've been to me over the last year
10 since I stepped down as the Chairman. It's been a
11 pleasure to be here and I hope Senator Roberti is right.
12 I could use two more paychecks.

13 (Laughter)

14 CHAIRMAN EATON: And that's a positive
15 note. We'll see you next year. Meeting is adjourned.

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4 I, Terri L. Emery, CSR 11598, a Certified
5 Shorthand Reporter in and for the State of California, do
6 hereby certify:

7 That the foregoing proceedings were taken
8 down by me in shorthand at the time and place named
9 therein and was thereafter transcribed under my
10 supervision; that this transcript contains a full, true
11 and correct record of the proceedings which took place at
12 the time and place set forth in the caption hereto.

13

14

15 I further certify that I have no interest
16 in the event of the action.

17

18

19 EXECUTED this 1st day of February, 2000.

20

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24

25

Terri L. Emery

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